

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO CLEAN)
CONSTRUCTION OR DEMOLITION)
DEBRIS FILL OPERATIONS (CCDD):)
PROPOSED AMENDMENTMENTS TO 35 ILL.)
Adm. Code 1100)
)

R12-9
(Rulemaking -Land)

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STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

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ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois Environmental Protection Agency's ERRATA SHEET NUMBER 3, MOTION FOR WAIVER OF COPY REQUIREMENTS, MOTION TO CORRECT THE TRANSCRIPT, copies of which are herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

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Division of Legal Counsel

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CONSTRUCTION OR DEMOLITION) R12-9
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PROPOSED AMENDMENTMENTS TO 35 Ill.)
Adm. Code 1100)
)

ORIGINAL

ERRATA SHEET NUMBER 3

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by and through one of its attorneys, Stephanie Flowers, and submits this ERRATA SHEET NUMBER 3 to the Illinois Pollution Control Board (“Board”) and the participants on the Service List. In response to comments from the Board and the public at the hearings held in this matter, the Illinois EPA would like to propose the following changes to its proposal:

1. Section 1100.104(a)

At the October 25-26, 2011 hearing, Illinois EPA responded to a series of pre-filed questions from the City of Chicago and the Suburban Public Works Directors Association regarding application of the term “potentially impacted property.” In its answers, the Illinois EPA made repeated reference to two ASTM International documents. At the Board’s request, Illinois EPA proposes to add these two documents, as follows, to the Incorporations by Reference under Section 1100.104(a). Use of these two documents is not required when determining whether soil comes from a “potentially impacted property,” but may be helpful to source site owners and operators, professional engineers and professional geologists in deciding how much evaluation and verification are necessary in making the uncontaminated soil certification.

- a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. (610) 832-9585.

ASTM E 1527-05 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, approved November 1, 2005.

ASTM E 1528-06 Standard Practice for Limited Environmental Due Diligence: Transaction Screen Process, approved February 1, 2006.

2. Section 1100.205(a)(4)

The Illinois EPA proposes to make changes to Section 1100.205(a)(4) as it was proposed in Errata Sheet Number 2 to address the Board's concerns regarding the unnumbered paragraph.

The Illinois EPA proposes that the following format for Section 1100.205(a)(4) be used instead of the format provided in Errata Sheet Number 2.

- a) The owner or operator must do all of the following activities and document all the activities for all CCDD and uncontaminated soil accepted for use as fill material:

4) Obtain documentation on rejected loads

A) For loads rejected from the same or another fill operation, the owner or operator may accept a rejected load if subsections (a)(1) through (a)(3) of this Section are satisfied and the owner or operator also obtains the following information:

- i) Information identifying the rejected load and the reasons it was rejected, including, but not limited to, a copy of the written notice the driver received pursuant to subsection (b)(4)(A) of this Section when the load was rejected;
- ii) Information demonstrating that the load proposed for acceptance is the rejected load identified in subsection (a)(4)(A) of this Section;

ii) Information demonstrating that the reasons for rejection of the load have been corrected; and

iv) For all soil, including soil mixed with CCDD, a certification meeting the requirements of subsection (a)(1) of this Section that is executed after correction of the reasons for the load rejection. This subsection (a)(4)(A)(iv) does not apply if load rejection was due to the detection of non-CCDD or non-soil material, including, but not limited to, wood, glass, piping, vegetation, plastic, metal, electrical wiring, or concrete with protruding rebar.

B) Except as provided in subsection (a)(4)(A)(iv) above, the information required under subsection (a)(4)(A) must be on forms and in a format prescribed by the Agency, and must be certified by the source site owner, the source site operator, a Licensed Professional Engineer, or a Licensed Professional Geologist. Loads accepted pursuant to this subsection (a)(4) are subject to all other requirements of this Part, including but not limited to the load checking program in effect at the receiving fill operation pursuant to subsection (b) of this Section.

3. Section 1100.212

Illinois EPA has reviewed the amendments submitted by Steven Gobelman of the Illinois Department of Transportation to the Board on October 7, 2011, concerning Section 1100.212: Use of Painted CCDD as Fill Material. The Illinois EPA supports the amendments proposed by Mr. Gobelman and proposes that the Board amend Section 1100.212 accordingly.

4. Section 1100.610(b)

At the October 25-26, 2011 hearing, Illinois EPA had a discussion with Mr. Gobelman and Mr. Huff concerning the use of the TCLP/SPLP tests to confirm compliance with maximum allowable concentrations for inorganics. As a result of this discussion, the Illinois EPA proposes to modify the language of its proposal at Section 1100.610(b)(1) to allow that the TCLP/SPLP methods could be used to confirm compliance with MACs when background values for inorganics from 35 Ill. Adm. Code 742.Appendix A, Table G have been used in place of more

stringent MACs derived from objectives for the soil migration to groundwater exposure route in Section 742.Appendix B, Table A. The Illinois EPA considers this alternative method of determining compliance for inorganics with underlying MACs based on the soil migration to groundwater exposure route as equally protective as the direct comparison of totals concentrations in the current version of subsection (b)(1). A similar alternative for inorganics with MACs based on the soil migration to groundwater exposure route already is provided in Section 1100.610(b)(3)(C). Changes proposed for Section 1100.610(b)(3) are to conform to the proposed amendments just described and to correct errors in cross-references. Please note that the language for Section 1100.610(b) shown below incorporates the change proposed in Errata Sheet Number 1.

- b) If soil sampling and analysis are used to evaluate compliance with the maximum allowable concentrations for chemical constituents in uncontaminated soils, compliance generally must be determined by comparing total soil concentrations from the laboratory reports with the maximum allowable concentrations as determined pursuant to Section 1100.605 of this Part. The following procedures will be required, as applicable, when making the comparisons: ~~for ionizing organic constituents and inorganic constituents:~~
 - 1) If the background value from 35 Ill. Adm. Code 742.Appendix A, Tables G or H was determined to be the maximum allowable concentration for ~~an organic constituent or an inorganic constituent; or a polynuclear aromatic hydrocarbon constituent~~, compliance must be determined as follows: a direct comparison of that value with the total soil concentration from the laboratory report must be used to evaluate compliance.
 - A) The applicable background value from Table G or H may be compared directly with the total soil concentration from the laboratory report; or
 - B) If, as determined pursuant to subsections (a) and (b) of Section 1100.605, the applicable background value for an inorganic chemical constituent from Table G has been selected as the maximum allowable concentration in place of a more stringent value for the Class I soil component of the groundwater ingestion exposure route in 35 Ill. Adm. Code 742.Appendix B, Table A,

concentrations in the extract from the Toxicity Characteristic Leaching Procedure (TCLP) or Synthetic Precipitation Leaching Procedure (SPLP) analytical extraction test in accordance with Methods 1311 and 1312, respectively, in SW-846 may be compared with the chemical's Class I soil component of the groundwater ingestion exposure route value in Appendix B, Table A.

- 2) For ionizing organic constituents, if, as determined pursuant to Section 1100.605 of this Part, the lowest Tier 1 chemical-specific soil value is for the soil component of the Class I groundwater ingestion exposure route, the total soil concentration from the laboratory report must be compared with the lowest corresponding pH-dependent value in 35 Ill. Adm. Code 742.Appendix B, Table C.
- 3) For inorganic constituents and except as provided in subsection (b)(1)(B) of this Section, if, as determined pursuant to Section 1100.605 of this Part, the lowest Tier 1 chemical-specific soil value is for the soil component of the Class I groundwater ingestion exposure route, compliance must be evaluated by comparing the total soil concentration from the laboratory report using the following methods:
 - A) Total soil concentrations from the laboratory report must be compared with the lowest chemical-specific, pH-dependent value for the soil component of the Class I groundwater ingestion exposure route in Appendix B, Table C; or
 - B) For inorganic chemical constituents that are listed in Appendix B, Table A but not in Appendix B, Table C, the total soil concentrations from the laboratory report must be compared with the product of the extraction test values for the soil component of the Class I groundwater ingestion exposure route in Appendix B, Table A multiplied by twenty (20) to convert to total soil concentration values; or
 - C) As an alternative to subsections ~~(b)(a)(3)(A)~~ and ~~(b)(a)(3)(B)~~ of this Section, concentrations in the extract from the Toxicity Characteristic Leaching Procedure (TCLP) or Synthetic Precipitation Leaching Procedure (SPLP) analytical extraction test in accordance with Methods 1311 and 1312, respectively, in SW-846 may be compared with the chemical's chemical-specific extraction test values for the Class I soil component of the groundwater ingestion exposure route value in Appendix B, Table A.

5. Section 1100.735

The Illinois EPA proposes adding language to Section 1100.735, as follows, that would exclude certain parameters for radionuclides and explosives from the required groundwater monitoring both because the cost of testing for these parameters is significantly higher than the cost of analysis for most parameters (See Page 6 of John Hock's pre-filed testimony in R12-09, received by the Board on October 7, 2011, regarding the cost testing for the radionuclides) and because the Illinois EPA believes the likelihood of these parameters being found in the monitoring wells at the fill sites is extremely low.

Except for the parameters listed in Part 1100, Appendix A, the The owner or operator must monitor for all parameters for which there is a Class I groundwater quality standard at 35 Ill. Adm. Code 620.410.

6. Section 1100.Appendix A

In relation to the above change proposed to Section 1100.735, the Illinois EPA proposes to add an Appendix A, as follows, that will provide a list of twelve parameters excluded from the testing required by Section 1100.735. The excluded parameters are Class I groundwater quality standards for Radium-226 and Radium-228, which are given in Section 620.410(a) and Class I groundwater quality standards for Tritium and Strontium-90, which are given in Section 620.410(e)(3). Additionally, in the R08-18 rulemaking currently pending with the Board Class I groundwater quality standards have been proposed for eight explosives at proposed subsection 620.410(c) which the Illinois EPA are also proposing be excluded from the testing parameters required by Section 1100.735.

Section 1100.Appendix A: List of parameters for which groundwater samples, collected for Part 1100, Subpart G groundwater monitoring, do not need to be routinely analyzed

Radium-226
Radium-228
Tritium
Strontium-90
1,3-Dinitrobenzene
2,4-Dinitrotoluene
2,6-Dinitrotoluene
HMX (High Melting Explosive, Octogen)
Nitrobenzene
RDX (Royal Demolition Explosive, Cyclonite)
1,3,5-Trinitrobenzene
2,4,6-Trinitrotoluene (TNT)

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Stephanie Flowers

Stephanie Flowers
Assistant Counsel
Division of Legal Counsel

DATED: 11-18-11
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STATE OF ILLINOIS
Pollution Control Board

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MOTION FOR WAIVER OF COPY REQUIREMENTS

NOW COMES the Illinois Environmental Protection Agency ("Agency") and pursuant to 35 Ill. Adm. Code 101.500 and 102.110 moves the Illinois Pollution Control Board ("Board") to waive the requirement set forth at 35 Ill. Adm. Code 101.302(h) and allow the Agency to submit two copies of the Incorporations by Reference listed in its Errata Sheet #3 filed with the Board in this matter.

In support of this Motion, the Agency states:

1. The Agency must pay a copyright fee for each copy of an ASTM standard provided to the Board.
2. The Agency has included two copies of ASTM E 1527-05 and two copies of ASTM E 1528-06 with this submittal;
3. Given the current fiscal situation of the State, additional costs for copyright would be unwarranted.

WHEREFORE, the Agency moves that the Board waive the requirement to submit an original and nine copies for each filing.

Respectfully submitted,

DATED: 11-18-11
1021 North Grand Avenue East
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ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY
By: Stephanie Flowers
Stephanie Flowers
Assistant Counsel

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD NOV 1 2011

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
) R12-9
 PROPOSED AMENDMENTS TO) (Rulemaking-Land)
 CLEAN CONSTRUCTION OR DEMOLITION)
 DEBRIS FILL OPERATIONS (CCDD))
 (35 Ill. Adm. Code 1100))

ORIGINAL

MOTION TO CORRECT THE TRANSCRIPT

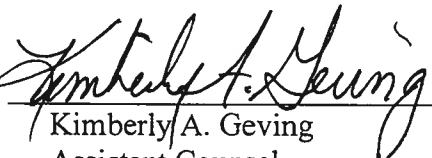
NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”) by one of its attorneys, Kimberly A. Geving, and pursuant to 35 Ill. Adm. Code 101.604 moves the hearing officer in this matter to correct the transcripts of October 25, 2011 and October 26, 2011 as follows:

Transcript
October 25, 2011

<u>Page</u>	<u>Line</u>	<u>Correction</u>
15	23	Change “water softer” to “water softener”
40	1-2	Change “glass roots in wood” to “glass, roots, and wood”
102	20	Change “CC” to “CCDD”
107	13	Add “say” after “doesn’t”
142	19	Change “Marrow’s” to “Morrow’s”
143	17	Change “ton” to “one”
146	20	Change “Contaminations” to “Concentrations”
147	1	Change “Contamination” to “Concentration”
147	15	Change “contaminates” to “contaminants”
150	20	Change “road” to “load”
171	9	Change “310.160(b)” to “3.160(b)”
174	16	Add “been” after “hasn’t”
176	15	Change “require” to “requires”
178	17	Change “inquire” to “require”
181	17	Change “liability” to “solubility”
182	12	Change “mass” to “MACs”
184	5	Change “protected” to “rejected”
186	18	Change “manner” to “matter”
187	7	Change “Balke” to “Blake”
188	19	Insert quotes around “area” and delete “in quotes”
190	1	Change “establish” to “established”

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Kimberly A. Geving
Assistant Counsel
Division of Legal Counsel

Dated: November 18, 2011

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STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

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STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached ERRATA SHEET
NUMBER 3, MOTION FOR WAIVER OF COPY REQUIREMENTS, MOTION TO
CORRECT THE TRANSCRIPT upon the persons to whom they are directed, by placing
a copy of each in an envelope addressed to:

John T. Therriault, Clerk
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ATTACHED SERVICE LIST
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and mailing them from Springfield, Illinois on November 18, 2011, with sufficient
postage affixed as indicated above.

Meredith Kelly

SUBSCRIBED AND SWORN TO BEFORE ME

This 18th day of November, 2011.

Dawn A. Hollis
Notary Public



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