

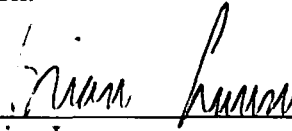
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED AMENDMENTS TO CLEAN)	R 2012-009
CONSTRUCTION OR DEMOLITION)	(Rulemaking – Land)
DEBRIS (CCDD) FILL OPERATIONS:)	
PROPOSED AMENDMENTS TO 35 Ill.)	
Adm. Code 1100)	

NOTICE OF FILING

To: SEE ATTACHED SERVICE LIST

Please take notice that on the 2nd day of December 2011, you were served with copies of Public Comments Submitted by the Land Reclamation & Recycling Association.

By: 
 Brian Lansu
 Land Reclamation & Recycling Association
 2250 Southwind Blvd.
 Bartlett, IL 60103

Date: December 2, 2011

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO CLEAN) R 2012-009
CONSTRUCTION OR DEMOLITION) (Rulemaking – Land)
DEBRIS (CCDD) FILL OPERATIONS:)
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code 1100)

**PUBLIC COMMENTS SUBMITTED BY THE
LAND RECLAMATION & RECYCLING ASSOCIATION**

The Illinois Pollution Control Board (the “Board”) has the advantage of reviewing the impact of the proposed IEPA rules on soil and construction material disposal in this state. Virtually all of the rules and procedures recommended by the Illinois EPA are already being implemented by the reclamation fill industry. The majority of registered CCDD facilities and the professional engineers/geologists that are responsible for identifying “uncontaminated soil”, are using as their guideline the version of the MAC tables recently proposed by the IEPA. The following is a summary of comments received and observations made by LRRRA with regard to the practical application of the proposed rules:

1. Contrary to comment #3 submitted on behalf of Waste Management of Illinois, Inc., units of local government in Illinois have noticed an increase in the amount of soil and CCDD that is being disposed of at permitted landfill facilities under the interim standards. This specific comment has been made to LRRRA by Dean Olson, Waste Services Manager for Will County which has the largest number of registered CCDD and soil only sites of any county in Illinois. It is LRRRA’s opinion that the primary cause for this increase in landfill volume is the conservative approach to allowable constituent levels and detailed testing procedures included in the proposed standards. LRRRA believes that the current standards have led to improved soil quality at registered CCDD and soil only sites and, by extension, an improvement in underlying groundwater quality. LRRRA submits that, in light of the foregoing and in the absence of a demonstrated, pre-existing problem with groundwater quality in and around mines and quarries, there is no justification for imposing mandatory groundwater monitoring on the reclamation fill industry.
2. With regard to metropolitan soils the primary area of concern is typically PNAs as these compounds have a cancer risk if inhaled or ingested. The proposed standards set forth by the IEPA allow “background” levels for PNAs based on the location of the quarry or mine accepting the soil. The background table limits are based on studies such as the “Concentrations of Polynuclear Aromatic Hydrocarbons and Inorganic Constituents in Ambient Surface Soils, Chicago, Illinois: 2001-2002” report prepared by the USGS. This particular study involved samples collected from 57 random sites owned by either the City of Chicago or Commonwealth Edison to

determine the 95th percentile of the lognormal distribution. The study includes a caveat which states that the “concentrations of PAH compounds in soils typically varied by at least three orders of magnitude across the City and varied by more than an order of magnitude over a distance of about 1,000 feet.” LRRRA discussions with professional engineers and geologists confirm that the levels of constituents can vary dramatically from different areas of a single site and, on average, 10% to 30% of samples from any site fail to meet the background limits currently proposed by the IEPA. As the proposed rules do not allow for data averaging, these engineers and geologists believe that approximately 20% of the soil excavated from Chicago area construction projects is being rejected by registered CCDD facilities. Unfortunately, the practical application of the proposed rules raises the following issues:

- a. Contractors/Owners are reluctant to spend money testing soil when that testing will likely lead to increased disposal costs at a landfill. Rather than incurring these additional costs, they seek “unregulated” disposal options such as small developments or park districts that are in need of fill;
- b. Contractors/Owners who do hire professional engineers to do perform testing often attempt to keep rejected soil with high PNA levels on site to avoid the high cost of landfill disposal. This is accomplished by over-excavating “clean” areas to dispose of the rejected soil or by building landscape berms or other features on site. One example of this type of soil maneuvering is the Lyons SRP site which is adjacent to the Reliable Materials Lyons CCDD facility. The plan approved by the IEPA included testing and segregating excavated soil from the proposed Lyons Ball field project into two stockpiles – one with PNA levels above TACO background and one with PNA levels below background. The pile below Background was disposed of in the adjacent CCDD facility and the stockpile with above background PNA values was placed in a berm on site that was covered with 3 ft. of clean fill. The berm was located in the park within 10 ft of the edge of the CCDD facility as depicted below.



In both of these scenarios soil with high PNA levels was left on or near the land surface where the potential for ingestion and inhalation is fairly high. LRRRA believes the MAC standards for PNAs for registered CCDD and soil only sites should be based on Groundwater 1 and Construction Worker Standards as these are the pertinent pathways involved at these facilities. These higher allowable levels would significantly reduce the amount of Chicago area soil rejected at these sites. It would also limit the cost to the Contractor/Owner to properly dispose of soil exceeding these standards. In LRRRA's opinion this would encourage the disposal of PNA-impacted soil deep below the surface, thereby reducing the potential for inhalation and ingestion and providing better protection of the environment. LRRRA recognizes that, in order to maintain the health and safety of the environment under these higher standards for PNAs, a modified closure plan would be required at registered CCDD and soil only fill sites planning to accept this material. LRRRA proposed in SB 2166 that sites accepting soils with PNA levels above background but below groundwater 1 standards be required to: (1) cap the site with 10 feet of soil meeting TACO Most Stringent Standards; and (2) record deed restrictions limiting the site development to Industrial/Commercial uses. LRRRA supports the inclusion of this option in the final CCDD rules.

3. The adoption of rules by the Board may require changes to current industry practices. Legislation creating many of the new rules the industry is operating under today was passed during the summer of 2010 in the middle of construction season. The introduction of these rules during the season caused numerous hardships for the construction industry as many jobs were bid under different rules than those adopted. LRRRA requests that the Board include a 90 day implementation period in its final rules to allow for industry education the development of revised procedures.

By:



Brian Lansu
Land Reclamation & Recycling Association
2250 Southwind Blvd.
Bartlett, IL 60103

Date: December 2, 2011