

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO CLEAN) R12-009
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 I have filed today with the Illinois Pollution Control Board the Second Public Comment Submitted by Waste Management of Illinois, Inc., a copy of which is herewith served upon you.

Dated: April 18, 2012

Respectfully submitted,

**WASTE MANAGEMENT OF
ILLINOIS, INC.**

By: 
Michelle A. Gale
Waste Management
720 East Butterfield Road
Lombard, Illinois 60148
(630) 572-8800

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**SECOND PUBLIC COMMENT SUBMITTED BY
WASTE MANAGEMENT OF ILLINOIS, INC.**

Waste Management of Illinois, Inc. (“Waste Management”) by and through its counsel, Dennis Wilt, hereby files its second public comment in this matter, pursuant to the Hearing Officer Order issued on March 14, 2012.

1. pH Range for Determining MACs.

A. Opinion and Order of the Board (First Notice) issued on February 2, 2012.

On pages 68-69 of the Board’s Opinion and Order, it found that the uniform statewide approach for determining MACs proposed by the IEPA is appropriate for defining uncontaminated soil. The Board also found that there was insufficient information to support the application of a higher pH range to determine MACs on a statewide basis, relying on the statewide pH data submitted by IEPA from the state soil geographic database (STATSGO), as being more reliable than the limited pH data submitted by opponents of the IEPA’s proposed approach from three facilities located in northern Illinois.

B. Testimony By Opponents of IEPA’s pH Soil Value Approach.

The three witnesses called by Mr. Hendrickson, who appeared on behalf of the Illinois Association of Aggregate Producers, all submitted evidence of pH data from facilities located in northern Illinois. Mr. Wilcox testified with respect to two quarries in northwest Illinois (see pages 71-72 of the March 13 transcript). Ms. Maenhout testified with respect to four CCDD facilities in the Chicagoland area (see pages 24-25 of the March 13 transcript). Mr. Hock, consistent

with his testimony at the first hearing, testified regarding other Chicagoland facilities (see pages 75-78 of the March 13 transcript).

With respect to statewide pH data, Dr. Fernandez, called to appear by Mr. Huff, referred to a 51-county survey, testifying that this survey showed pH samples at 4.74, 4.96 and 5.14 (see page 107 of the March 13 transcript). The only other witness who testified with respect to pH values was Mr. Roy. He testified that certain areas (fens and bogs) could have pH values between 3.8 and 7.5. Mr. Roy relied extensively on Table 2 of his pre-filed testimony, which includes only soil pH values for northern Illinois counties. Mr. Roy did refer to a statewide survey that indicated a mean pH of 6.4 (see pages 15-17 of the March 14 transcript).

C. Waste Management's Experience. In late 2011, Waste Management received contaminated soils with pHs of 5.2 and 6.0. Copies of the portions of the STAT Analysis Corporation's reports with respect to these soils are attached as Exhibits A and B.

D. Summary. Waste Management believes that the opponents of the pH value conclusions reached by this Board and published in its First Notice Opinion should have to meet a heavy burden before this Board reverses its decision and disregards the STATSGO information previously submitted by the IEPA and the IEPA's recommendation, particularly in light of the fact that using less conservative pH values would result in soils containing much greater levels of certain contaminants being disposed of in unlined facilities often located in vulnerable geologic settings (see chart on page 6 of Pre-filed Supplemental Testimony of Thomas E. Huff). This burden has not been met. First, most of the information submitted by opponents of the Board's First Notice approach testified as to pH values in northeastern Illinois. This is precisely the problem identified by the Board in its First Notice Opinion (see page 69). Second, the two witnesses that testified with respect to statewide pH values both indicated that those values could be as low as 4.74 and 3.8 (Dr. Fernandez at page 107 of the March 13 transcript and Mr. Roy at page 27 of the March 14 transcript). The pH information submitted by Waste Management with respect to soils accepted in late 2011 shows pH levels of 5.2 and 6.0. Waste Management does not believe there was any credible evidence submitted that provides this Board with a reason to disregard its adoption of the

IEPA's proposed uniform statewide approach in determining MACs using the lowest pH-dependent value.

E. Groundwater Monitoring. The only additional evidence submitted with respect to whether groundwater monitoring should be required was the testimony by Mr. Cobb, Deputy Manager of the Division of Public Water Supplies of the IEPA, and Kenneth Liss, who testified on behalf of Waste Management. Waste Management believes that Mr. Cobb's testimony was persuasive, particularly with respect to identifying the significant risks of not imposing a groundwater monitoring requirement, as proposed by the IEPA.

Mr. Liss's testimony extrapolated the annual costs for groundwater monitoring to a cost per ton. The only objection previously identified with respect to the cost of groundwater monitoring was based on the annual costs of such monitoring, not the costs of developing and installing a monitoring system itself (see page 27 of First Notice Opinion). There were no objections to Mr. Liss's testimony that the per ton cost of groundwater monitoring would be as low as 8-16 cents per ton.

Respectfully submitted,



Dennis Wilt
Attorney for Waste Management of Illinois, Inc.

Dated: April 18, 2012

STAT Analysis Corporation

2242 West Harrison St., Suite 200, Chicago, IL 60612-3766

Tel: (312) 733-0551 Fax: (312) 733-2386 STATinfo@STATAnalysis.com

Accreditation Numbers: IEPA ELAP 100445; ORELAP IL300001; AIHA 101160; NVLAP LabCode 101202

Date Reported: December 20, 2011

Date Printed: December 20, 2011

Client:	Clean Harbors Environmental Services, Inc.	Client Sample ID:	WM-Laraway Daramend
Lab Order:	11120239	Collection Date:	12/7/2011 9:00:00 AM
Project:	EJ318701-009, URS-MWRD Parcel 14.03, Lockport	Matrix:	Soil
Lab ID:	11120239-001		

Analyses	Result	RL	Qualifier	Units	DF	Date Analyzed
Volatile Organic Compounds by GC/MS	SW5035/8260B				Prep Date: 12/8/2011	Analyst: ART
Styrene	ND	0.013		mg/Kg-dry	1	12/8/2011
Tetrachloroethene	ND	0.013		mg/Kg-dry	1	12/8/2011
trans-1,2-Dichloroethene	ND	0.013		mg/Kg-dry	1	12/8/2011
trans-1,3-Dichloropropene	ND	0.0053		mg/Kg-dry	1	12/8/2011
Trichloroethene	ND	0.013		mg/Kg-dry	1	12/8/2011
Vinyl chloride	ND	0.013		mg/Kg-dry	1	12/8/2011
TCLP Volatile Organic Compounds by GC/MS	SW1311/8260B (SW5030B)				Prep Date: 12/7/2011	Analyst: ERP
Benzene	ND	0.05		mg/L	10	12/8/2011
2-Butanone	ND	0.2		mg/L	10	12/8/2011
Carbon tetrachloride	ND	0.05		mg/L	10	12/8/2011
Chlorobenzene	ND	0.05		mg/L	10	12/8/2011
Chloroform	ND	0.05		mg/L	10	12/8/2011
1,2-Dichloroethane	ND	0.05		mg/L	10	12/8/2011
1,1-Dichloroethene	ND	0.05		mg/L	10	12/8/2011
Tetrachloroethene	ND	0.05		mg/L	10	12/8/2011
Trichloroethene	ND	0.05		mg/L	10	12/8/2011
Vinyl chloride	ND	0.05		mg/L	10	12/8/2011
Cyanide, Reactive	SW7.3.3.2				Prep Date: 12/8/2011	Analyst: YZ
Reactive Cyanide	ND	1		mg/Kg	1	12/9/2011
Flash Point (Open-Cup)	SW1010(M)				Prep Date: 12/7/2011	Analyst: RW
Flashpoint	No flash up to 212		*	°F	1	12/7/2011
Paint Filter	SW9095A				Prep Date: 12/7/2011	Analyst: RW
Paint Filter	Pass			Pass/Fail	1	12/7/2011
pH (25 °C)	SW9045C				Prep Date: 12/7/2011	Analyst: MNG
pH	5.2			pH Units	1	12/7/2011
Phenolics	SW9066 (SW9065)				Prep Date: 12/8/2011	Analyst: YZ
Phenolics, Total Recoverable	ND	0.32		mg/Kg-dry	1	12/8/2011
Percent Moisture	D2974				Prep Date: 12/7/2011	Analyst: PBG
Percent Moisture	22.7	0.2	*	wt%	1	12/8/2011
Sulfide, Reactive	SW7.3.4.2				Prep Date: 12/8/2011	Analyst: YZ
Reactive Sulfide	ND	10		mg/Kg	1	12/8/2011

Qualifiers:

ND - Not Detected at the Reporting Limit
 J - Analyte detected below quantitation limits
 B - Analyte detected in the associated Method Blank
 HT - Sample received past holding time
 * - Non-accredited parameter

RL - Reporting / Quantitation Limit for the analysis
 S - Spike Recovery outside accepted recovery limits
 R - RPD outside accepted recovery limits
 E - Value above quantitation range
 H - Holding time exceeded

STAT Analysis Corporation

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Accreditation Numbers: IEPA ELAP 100445; ORELAP IL300001; AIHA 101160; NVLAP LabCode 101202

Date Reported: December 12, 2011

Date Printed: December 12, 2011

Client:	ARCADIS U.S., Inc.	Client Sample ID:	SS-1
Lab Order:	11120083	Collection Date:	12/2/2011 9:10:00 AM
Project:	ComEd-Lansing TDC 446, Lansing, IL	Matrix:	Soil
Lab ID:	11120083-001		

Analyses	Result	RL	Qualifier	Units	DF	Date Analyzed
Volatile Organic Compounds by GC/MS		SW8260B		Prep Date: 12/2/2011		Analyst: ART
Toluene	ND	0.0072		mg/Kg-dry	1	12/7/2011
1,1,1-Trichloroethane	ND	0.0072		mg/Kg-dry	1	12/7/2011
1,1,2-Trichloroethane	ND	0.0072		mg/Kg-dry	1	12/7/2011
Trichloroethene	ND	0.0072		mg/Kg-dry	1	12/7/2011
Vinyl chloride	ND	0.0072		mg/Kg-dry	1	12/7/2011
Xylenes, Total	ND	0.022		mg/Kg-dry	1	12/7/2011
pH (25 °C)		SW9045C		Prep Date: 12/2/2011		Analyst: RW
pH	6.0			pH Units	1	12/2/2011
Percent Moisture		D2974		Prep Date: 12/2/2011		Analyst: JP
Percent Moisture	29.9	0.2	*	wt%	1	12/3/2011

Qualifiers:

ND - Not Detected at the Reporting Limit

J - Analyte detected below quantitation limits

B - Analyte detected in the associated Method Blank

HT - Sample received past holding time

* - Non-accredited parameter

RL - Reporting / Quantitation Limit for the analysis

S - Spike Recovery outside accepted recovery limits

R - RPD outside accepted recovery limits

E - Value above quantitation range

H - Holding time exceeded

PROOF OF SERVICE

I, Michelle A. Gale, certify that I have served the attached Notice of Filing and Second Public Comment Submitted by Waste Management of Illinois, Inc., on April 18, 2012, to the following by the methods indicated:

By electronic mail:	
John Therriault, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, IL 60601 therriaj@ipcb.state.il.us	Marie Tipsord, Hearing Officer Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph St., Suite 11-500 Chicago, IL 60601 tipsorm@ipcb.state.il.us
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Michelle A. Gale