ILLINOIS POLLUTION CONTROL BOARD
August 23, 2012

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

Adopted Rule. Final Notice.

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On July 29, 2011, the Illinois Environmental Protection Agency (IEPA) filed a proposal pursuant to Sections 22.51 and 22.51a of the Environmental Protection Act (Act) (415 ILCS 5/22.51 and 22.51a (2010)). The proposal will amend the Board's rules for Clean Construction or Demolition Debris Fill Operations to allow for use of uncontaminated clean construction or demolition debris (CCDD) and uncontaminated soil to be used as fill at quarries, mines and other excavations. The Board held two hearings in this matter prior to first notice under the Illinois Administrative Procedure Act (IAPA) (5 ILCS 100/5 *et. seq.* 2010)), which the Board adopted on February 2, 2012. The Board held an additional two days of hearing during first notice and on June 7, 2012, adopted the proposal with amendments suggested by participants for second notice. Today the Board adopts the final rule, making changes recommended by the Joint Committee on Administrative Rules (JCAR).

PROCEDURAL BACKGROUND

IEPA filed a proposal on July 29, 2011, including a statement of reasons (SR) and a motion to waive filing requirements. IEPA was required by Section 22.51 of the Act to propose rules to the Board by July 30, 2011. 415 ILCS 4/22.51 (2010). The Board must adopt the rules no later than one year after receipt of IEPA's proposal

On September 26, 2011, a hearing was held in Springfield, Illinois at which IEPA provided testimony. An additional hearing was held on October 25 and 26, 2011, during which several interested parties as well as IEPA offered testimony. The October 25, 2011 hearing also fulfilled the statutory obligation under Section 27(b) of the Environmental Protection Act (Act) (415 ILCS 5/27(b) (2010)). Section 27(b) of the Act requires the Board to request the Department of Commerce and Economic Opportunity (DCEO) to conduct an economic impact study (EcIS) on certain proposed rules prior to adoption of those rules. If DCEO chooses to conduct the EcIS, DCEO has 30 to 45 days after such request to produce a study of the economic impact of the proposed rules. The Board must then make the EcIS, or DCEO's explanation for not conducting the study, available to the public at least 20 days before a public hearing on the economic impact of the proposed rules. The Board sent DCEO the request on August 4, 2011.

On September 28, 2011, DCEO declined to perform an EcIS. The hearing officer sought comment on DCEO's decision not to perform an EcIS.

On February 2, 2012, the Board adopted a first-notice proposal. During the first notice period the Board held an additional two days of hearings on March 13 and 14, 2012. The hearing officer again sought comment on DCEO's decision not to perform an EcIS.

On June 7, 2012, the Board proceeded to second notice and filed the rule with JCAR. JCAR considered the rule at its the July 10, 2012 JCAR meeting. At the July 10, 2012, JCAR requested, and the Board agreed, to extend the second notice period for an additional 45 days. The rule was again be considered by JCAR at its August 14, 2012 meeting. At that meeting JCAR issued a recommendation and a certificate of no objection.

SUMMARY OF THE RULE

The rule proposal deleted several definitions and the addition of several new definitions. New definitions include "aquifer", "background groundwater quality", "carcinogen", "compliance boundary", "compliance point" "cone of depression", "dewatering", "fill operation", "potentially impacted property", "professional geologist", "representative groundwater conditions", "site of origin", "source site owner", "source site operator", "uncontaminated soil", "uncontaminated soil fill operation" and "uppermost aquifer". SR at 8. The term "other excavation" is removed from the larger definition for "CCDD fill operation" and placing the definition on its own. *Id*. Amendments also include the deletion of a portion of the statutory definition of "CCDD" that was not relevant to this Part, and the deletion of the term "malodor", which is related to air pollution and has been replaced in these rules with the use of the term "foul odor". *Id*.

The proposal updated the incorporation by references in the rule and added additional incorporations necessary because of the amendments adopted today. Also, the proposed rule added new statutory prohibitions to the lists of prohibited activities and a requirement that the annual facility map be submitted with the annual report required under Section 1100.211. In addition the proposal required that the fill operation control odors and other nuisances as part of its daily operations.

The proposed rule added requirements for the certification and load checking of soil taken to a CCDD or uncontaminated soil fill operation. Those requirements included that the soil be certified as uncontaminated and that the pH is within a certain range.

In addition to several amendments to the operation and maintenance provisions relating to CCDD or uncontaminated soil fill operations, a new subpart was added to specifically address uncontaminated soil fill operations; many of these requirements are similar to those for CCDD facilities.

A new subpart addressing standard for determining what constitutes uncontaminated soil was added in the rule. This subpart establishes how MACs are determined as well as testing and evaluation procedures.

SUMMARY OF FIRST NOTICE

At first notice, the Board made several changes to IEPA's proposal. First, the Board found that no evidence was provided to demonstrate that CCDD or uncontaminated soil fill sites were a source of groundwater contamination. Also, considering the potentially sizeable costs for groundwater monitoring, the Board found that the record did not support groundwater monitoring at this time. The Board therefore proceeded to first notice without Subpart G of IEPA's proposal.

Because the Board determined not to proceed with groundwater monitoring, the Board strengthened soil certification and soil testing requirements. To that end, the Board found that proposing the phrase "potentially impacted properties" (PIP) rather than the terms "commercial or industrial" is within the Board authority under the Act. The Board retained the term PIP, as proposed by IEPA, but addressed issues concerning PIP determination. The Board requires soil certification to be based upon source site evaluation conducted in accordance with the ASTM standards. The Board amended IEPA's source site owner or operator certification at Section 1100.205(a)(1)(A) to be based on ASTM Standard E1528-06, and the Licensed Professional Engineer (LPE)/Licensed Professional Geologist (LPG) certification under Section 1100.205(a)(1)(B) to be based on ASTM Standard E1527-05. Further, the Board found that the proposed soil certification requirements must include analytical soil testing data to show compliance with the maximum allowable concentrations (MACs) when the soil is from a PIP. The Board also included the certification language in the rule.

The Board based the MACs for soil constituents on the Tiered Approach to Corrective Action Objectives (TACO) Tier 1 objectives, as proposed by IEPA; and the Board declined to define "uncontaminated" soil on a qualitative basis. The Board proposed a uniform statewide approach for determining MACs when defining uncontaminated soil, and did not allow for site-specific determination of MACs. Further, the Board found that the record did not support the adoption of a pH range of 6.25-6.64 to determine MACs for certain pH-sensitive chemical constituents. The Board proposed the MAC provisions as proposed under Subpart F by IEPA for first notice. Likewise, the Board did not amend IEPA's proposal relating to inhalation and ingestion. As to IEPA's proposal for developing a table of MAC values to be available on IEPA's website, the Board agreed that such a procedure is appropriate and that the table need not be adopted as a rule. However, when IEPA develops objectives for chemical constituents not listed in TACO rules, the Board added an opportunity for appeal of that IEPA determination to the Board.

The Board found that even though soil fill operations are not required to be permitted, requiring the owner or operator to submit additional information to IEPA is appropriate and the proposed rule was amended to reflect the Board's decision. For example, the proposed rules required soil fill operations to submit annual operating reports similar to those required by CCDD operations, and the soil fill operation registration form is expanded to include the information required for CCDD permits.

The Board also amended IEPA's proposal by adding LPGs to Sections 1100.205, 1100.212, 1100.412, 1100.525, and 1100.530 as requested in comments.

The Board found that the rule as proposed for first notice is economically reasonable and technically feasible.

SUMMARY OF SECOND NOTICE

After reviewing the record in this proceeding and in consideration of the comments and testimony, the Board made changes to the first-notice proposal. Specifically, the Board accepted comments from participants and no longer required the use of ASTM standards for determining if a site is a potentially impacted property (PIP) or if the soil is uncontaminated. Rather, the Board provided the ASTM and other methods as guidance to be used by the source site owner, or a LPE or LPG in evaluating the site. The Board also required IEPA to add additional items to the certification forms to better document the evaluation process.

The rule was also changed to require pH testing of soils from all source sites and establishes soil MAC based on a soil pH range of 6.25 to 9.0 for pH dependent chemical constituents. Under the proposed revisions, the MACs for chemicals with pH sensitivity would be based on the lowest pH dependent values between Part 742, Appendix B, Table C column range 6.25 to 6.64 and column range 8.75 to 9.0. The rule prohibits fill operations from accepting soils with a pH below 6.25 or above 9.0 regardless of applicable MACs.

The Board declined to add exemptions or allowances for small unplanned projects and did not add a "grandfathering" clause to the rule for projects already in progress or that have been placed for bid. The Board remains unconvinced that site-specific TACO should be used in this rule. And after review of the comments, the Board remained unconvinced that groundwater monitoring should be required for CCDD and uncontaminated soil fill operations.

The Board found that the rule as proposed for second notice is economically reasonable and technically feasible.

JCAR RECOMMENDATION

JCAR's recommendation states:

> At its meeting on August 14, 2012, the Joint Committee on Administrative Rules . . . recommended that the Pollution Control Board give further consideration to whether groundwater monitoring should be require for these facilities. This would give the Board the opportunity to receive further comment from parties who may not have submitted their supportive views when groundwater monitoring was an element of this proposal and who may have opinions and information to offer in light of the Board' decision to remove the requirement before going to 1st Notice on this rulemaking.

DISCUSSION

The Board appreciates the recommendation of JCAR and will accept JCAR's recommendation. The Board directs the Clerk to open a Subdocket B in this proceeding, which will include all the comments, testimony, and filings in this docket. At a later date, the Board will issue an order in Subdocket B, detailing the Board's procedures in that subdocket.

Pursuant to Section 27 of the Act (415 ILCS 5/27 (2010)) when promulgating a rule, the Board must take into account several matters including the technical feasibility and economic reasonableness of the rule. 415 ILCS 5/27(a) (2010). Further, the Board must make a determination as to whether the proposed rule has any adverse economic impact on the people of Illinois. 415 ILCS 5/27(b) (2010). The record in this proceeding supports the Board's decision not to require groundwater monitoring at this time as well as the requirements for testing and certification of loads placed in a CCDD or uncontaminated soil fill operation. The record also provides ample evidence for the Board's decision on MACs and load checking at CCDD or uncontaminated soil fill operations. Therefore, the Board finds that the rules adopted today are technically feasible and economically reasonable.

While JCAR made a recommendation for a subdocket, other than minor nonsubstantive changes, JCAR made no other suggestions. Therefore, the Board will adopt the rule as it was proposed for second notice making only those nonsubstantive changes suggested by JCAR.

CONCLUSION

The Board adopts a rule implementing provisions of Section 22.51 and 22.51a of the Act (415 ILCS 5/22.51 and 22.51a (2010)). The rule will require soil testing and certification of soils that are deposited in CCDD or uncontaminated soil fill operation. In addition, MACs for the soils are established and procedures for load checking at CCDD or uncontaminated soil fill operation have been established. The Board finds the rule economically reasonable and technically feasible.

At the recommendation of JCAR, the Board opens a Subdocket B to continue to examine the issue of groundwater monitoring at CCDD or uncontaminated soil fill operation. The Board will also make the nonsubstantive changes suggested by JCAR in the adopted rule. Except for those changes, the Board adopts the rule as it was proposed for second notice.

ORDER

The Board directs the Clerk to submit the following rule to the Secretary of State's Office for adoption:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE J: CLEAN CONSTRUCTION OR DEMOLITION DEBRIS
CHAPTER I: POLLUTION CONTROL BOARD

PART 1100
CLEAN CONSTRUCTION OR DEMOLITION DEBRIS FILL OPERATIONS AND UNCONTAMINATED SOIL FILL OPERATIONS

SUBPART A: GENERAL

Section
1100.101 Scope and Applicability
1100.102 Severability
1100.103 Definitions
1100.104 Incorporations by Reference

SUBPART B: OPERATING STANDARDS FOR CCDD FILL OPERATIONS

Section
1100.201 Prohibitions
1100.202 Surface Water Drainage
1100.203 Annual Facility Map
1100.204 Operating Standards
1100.205 Certifications and Load Checking
1100.206 Salvaging
1100.207 Boundary Control
1100.208 Closure
1100.209 Postclosure Maintenance
1100.210 Recordkeeping Requirements
1100.211 Annual Reports
1100.212 Use of Painted CCDD as Fill Material

SUBPART C: PERMIT APPLICATION INFORMATION FOR CCDD FILL OPERATIONS

Section
1100.301 Scope and Applicability
1100.302 Notification
1100.303 Required Signatures
1100.304 Site Location Map
1100.305 Facility Plan Maps
1100.306 Narrative Description of the Facility
1100.307 Proof of Property Ownership and Certifications
1100.308 Surface Water Control
1100.309 Closure Plan

SUBPART D: PROCEDURAL REQUIREMENTS FOR PERMITTING CCDD FILL OPERATIONS

SUBPART E: UNCONTAMINATED SOIL FILL OPERATIONS

SUBPART F: STANDARDS FOR UNCONTAMINATED SOIL USED AS FILL MATERIAL AT FILL OPERATIONS REGULATED BY THIS PART

AUTHORITY: Implementing Sections 5, 3.160, 22.51, and 22.51a and authorized by Sections 3.160, 22.51, 22.51a, and 27 of the Environmental Protection Act [415 ILCS 5/5, 22.51, 22.51a, and 27].

SOURCE: Adopted in R06-19 at 30 Ill. Reg.14534, effective August 24, 2006; amended in R12-9 at 36 Ill. Reg._____, effective_____.

SUBPART A: GENERAL

Section 1100.101 Scope and Applicability

a) This Part applies to all clean construction or demolition debris (CCDD) fill operations that are required to be permitted pursuant to Section 22.51 of the Act, other than CCDD fill operations permitted pursuant to 35 Ill. Adm. Code 807 or 811 through 814, and to all uncontaminated soil fill operations that are required to be registered pursuant to Section 22.51a of the Act.

b) This Part does not apply to:

1) CCDD or uncontaminated soil that is not ~~other than CCDD~~ used as fill material in a current or former quarry, mine, or other excavation;

2) The use of CCDD or uncontaminated soil as fill material in a current or former quarry, mine, or other excavation located on the site where the CCDD or uncontaminated soil was generated ~~*The use of* CCDD *as fill material in a current or former quarry, mine, or other excavation located on the site where the* CCDD *was generated* [415 ILCS 5/22.51(b)(4)(A)]~~;

3) The use of CCDD or uncontaminated soil as fill material in an excavation other than a current or former quarry or mine if the use complies with Illinois Department of Transportation specifications ~~*The use of* CCDD *as fill material in an excavation other than a current or former quarry or mine if* the *use complies with Illinois Department of Transportation specifications* [415 ILCS 5/22.51(b)(4)(B)]~~;

BOARD NOTE: The Illinois Department of Transportation (IDOT) specifications applicable to the use of CCDD or uncontaminated soil as fill can be found at Articles 107.22 and 202.03 of IDOT's "Standard Specifications for Road and Bridge Construction." According to IDOT specifications, this exemption applies to IDOT, a county, a municipality, or a township.

4) Current or former quarries, mines, and other excavations that do not use CCDD or uncontaminated soil as fill material ~~*Current or former quarries, mines, and other excavations that do not use clean construction or demolition debris as fill material* [415 ILCS 5/22.51(b)(4)(C)]~~;

5) The use of the following types of material as fill material:

A) CCDD or soil that is considered "waste" under the Act or rules adopted pursuant to the Act; or

B) Any material other than CCDD or uncontaminated soil, including, but not limited to, material generated on site as part of a mining process; and

6) The portions of a site not used for a CCDD fill operation or an uncontaminated soil fill operation.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5]:

"10-year, 24-hour precipitation event" means a precipitation event of 24-hour duration with a probable recurrence interval of once in 10 years.

"100-year, 24-hour precipitation event" means a precipitation event of 24-hour duration with a probable recurrence interval of once in 100 years.

"Acceptable Detection Limit" or "ADL" means the detectable concentration of a substance that is equal to the lowest appropriate Practical Quantitation Limit (PQL) as defined in this Section.

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" is the Illinois *Environmental Protection Agency established by* the *Act.* [415 ILCS 5/3.105]

"Applicant" means the person submitting an application to the Agency for a permit for a CCDD fill operation.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3])

"Board" is the Pollution Control Board established by the *Act.* [415 ILCS 5/3.105]

"CCDD" means clean construction or demolition debris.

"CCDD fill operation" means *a current or former quarry, mine, or other excavation where clean construction or demolition debris is used as fill material.*

[415 ILCS 5/22.51(e)(3)] ~~the use of CCDD as fill material in a current or former quarry, mine, or other excavation. For purposes of this Part, the term "other excavation" does not include holes, trenches, or similar earth removal created as part of normal construction, removal, or maintenance of a structure, utility, or transportation infrastructure.~~

"Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed or other *asphalt pavement, or soil generated from construction or demolition activities.* For purposes of this Part, CCDD may include uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, or reclaimed or other asphalt pavement that has been painted (painted CCDD) if the painted CCDD is used as fill material at a CCDD fill operation in accordance with Section 1100. 212. *Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any clean construction or demolition debris or other waste.* For purposes of this Part, uncontaminated soil may include incidental amounts of stone, ~~clay~~, rock, ~~sand~~, gravel, roots, and other vegetation. [415 ILCS 5/3.160(b)]

~~*To the extent allowed by federal law, clean construction or demolition debris shall not be considered "waste" if it is*~~:

> ~~*used as fill material outside of a setback zone if the fill is placed no higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area, and if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or structure; or*~~
>
> ~~*separated or processed and returned to the economic mainstream in the form of raw materials or products, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with* the first identical paragraph immediately above *within 30 days of its generation; or*~~
>
> ~~*solely broken concrete without protruding metal bars used for erosion control; or*~~
>
> ~~*generated from the construction or demolition of a building, road, or other structure and used to construct, on the site where the construction or demolition has taken place, a manmade functional structure not to exceed 20 feet above the highest point of elevation of the property immediately adjacent to the new manmade functional structure as that elevation existed prior to the creation of that new structure, provided that the structure shall be covered with sufficient soil materials to sustain vegetation or by a road or structure, and further provided that no such structure shall be*~~

~~*constructed within a home rule municipality with a population over 500,000 without the consent of the municipality.* [415 ILCS 5/3.160(b)]~~

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds, and financial records, that are used to support facts or hypotheses.

"Facility" means the areas of a site and all equipment and fixtures on a site used for a CCDD fill operation or uncontaminated soil fill operation. A facility consists of an entire ~~CCDD~~ fill operation. All structures used in connection with or to facilitate the ~~CCDD~~ fill operation will be considered a part of the facility.

"Filled area" means areas within a unit where CCDD or uncontaminated soil has been placed as fill material.

"Fill operation" means a CCDD fill operation or an uncontaminated soil fill operation, as the context requires.

~~"Malodor" means an odor caused by *one or more contaminant emissions into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be* described as malodorous and which may be *injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life or property.* [415 ILCS 5/3.115]~~

"Mine" means an excavation created for the purpose of extracting ore or minerals, including, but not limited to, coal.

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 USC 1251 et seq.), Section 12(f) of the Act, Subpart A of 35 Ill. Adm. Code 309, and 35 Ill. Adm. Code 310.

"NPDES permit" means a permit issued under the NPDES program.

"Operator" means a person responsible for the operation and maintenance of a ~~CCDD~~ fill operation. [415 ILCS 5/22.51(e)(1)]

"Other excavation" means a pit other than a quarry or mine created primarily for the purpose of extracting resources, including , but not limited to, clay or other soil and does not include holes, trenches, or similar earth removal created as part

of normal construction, removal, or maintenance of a structure, utility, or transportation infrastructure.

"Owner" means a person who has any direct or indirect interest in a ~~CCDD~~ fill operation or in land on which a person operates and maintains a ~~CCDD~~ fill operation. A "direct or indirect interest" does not include the ownership of publicly traded stock. The "owner" is the "operator" if there is no other person who is operating and maintaining a ~~CCDD~~ fill operation. [415 ILCS 5/22.51(e)(2)]

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.115]

"Potentially impacted property" means property on which a historical or current use, or contaminant migration from a proximate site, increases the presence or potential presence of contamination at the source site.

"Potentially impacted property" is intended to identify soil that is more likely to be contaminated and in need of professional evaluation and certification before placement in a fill site. Source site owners are encouraged to coordinate with the receiving facility on soil certifications. The following should be considered when determining whether property is "potentially impacted property": the current use of the property, the prior uses of the property, and the prior and current uses of adjoining property. For example, for transportation rights of way or utility easements, the current use of the property as a right of way or easement, the prior and current uses of the property prior to its use as a right of way or easement, and the uses of adjoining property should be considered. One or more of the following environmental site assessment standards or policies, which are incorporated by reference at Section 1100.104, may be used for determining whether a property is "potentially impacted property":

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.

Illinois Department of Transportation, Bureau of Design and Environment Manual, Part III Environmental Procedures, Chapter 27 Environmental Surveys, February 2011.

Illinois Department of Transportation, Local Roads and Street Manual, Chapter 20.

Illinois Department of Transportation, "A Manual for Conducting Preliminary Environmental Site Assessments for Illinois Department of Transportation Infrastructure Projects", Second Edition.

Illinois State Toll Highway Authority, "Environmental Studies Manual", Section F, July 2001.

"Practical Quantitation Limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846, incorporated by reference in Section 1100.104 of this Part.

"Professional engineer" or "PE" means a person who has registered and obtained a seal pursuant to the Professional Engineering Practice Act of 1989 [225 ILCS 325].

"Professional Geologist" or "PG" means a person licensed to practice as a professional geologist pursuant to the Professional Geologist Licensing Act [225 ILCS 745].

"Quarry" means an open surface excavation or pit created for the purpose of extracting stone, rock, sand and gravel.

"Runoff" means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a stream channel.

"Salvaging" means the return of CCDD to use other than use as fill at a CCDD fill operation.

"Setback zone" means a geographic area, designated pursuant to the *Act, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters.* [415 ILCS 5/3.450]

"Site of origin" means the site where the CCDD or uncontaminated soil was generated from construction or demolition activities.

"Source site operator" means a person responsible for the operation of the site of origin of the CCDD or uncontaminated soil.

"Source site owner" means a person having an ownership interest in the site of origin of the CCDD or uncontaminated soil.

"Uncontaminated soil" means soil generated during construction, remodeling, repair or demolition of utilities, structures and roads *that does not contain contaminants in concentrations that pose a threat to human health and safety and the environment.* [415 ILCS 5/3.160(c)] Subpart F of this Part establishes standards for soil that is considered uncontaminated for purposes of this Part.

"Uncontaminated soil fill operation" means a current or former quarry, mine, or other excavation where uncontaminated soil is used as fill material but does not include a clean construction or demolition debris fill operation. [415 ILCS 5/22.51a(a)(2)].

"Unit" means a contiguous area within a facility where CCDD or uncontaminated soil is placed ~~that is permitted for the placement of CCDD~~ as fill material.

"Working face" means any part of a unit where CCDD or uncontaminated soil is being placed as fill.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.104 Incorporations by Reference

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.

Illinois Department of Transportation, 2300 S. Dirksen Parkway, Springfield IL 62764. (217)782-7820

Bureau of Design and Environment Manual, Part III Environmental Procedures, Chapter 27 Environmental Surveys, September 2010. (Available online at http://www.dot.il.gov/desenv/Illinois%20BDE%20Manual.pdf).

Bureau of Local Roads and Street Manual, Chapter 20, Fifth Edition. (Available online at http://www.dot.il.gov/blr/manuals/Cover.pdf).

"A Manual for Conducting Preliminary Environmental Site Assessments for Illinois Department of Transportation Infrastructure Projects", Second Edition, 2012.

Illinois State Toll Highway Authority, 2700 Ogden Avenue, Downers Grove IL 60515. (630) 241-6800. "Environmental Studies Manual", Chapter VI, Section F, July 2001. (Available online at http://www.illinoistollway.com/documents/10157/30214/PPM_ENVIRONMENTAL+MANUAL_07012001.PDF)

"Human Health Toxicity Values in Superfund Risk Assessments (2003)". U. S. Environmental Protection Agency, Office of Solid Waste and Emergency Response, Washington, DC, OSWER Directive 9285.7-53, 2003. (Available online at http://www.epa.gov/oswer/riskassessment/pdf/hhmemo.pdf.)

IRIS. Integrated Risk Information System, National Center for Environmental Assessment, United States Environmental Protection Agency, 26 West Martin Luther King Drive, MS-190, Cincinnati, OH 45268, (513) 569-7254.

"Reference Dose (RfD): Description and Use in Health Risk Assessments", Background Document IA (March 15, 1993).

"Guidelines for Carcinogen Risk Assessment (2005)". U. S. Environmental Protection Agency, Washington, DC, EPA Publication No. EPA/630/P-03/001F, 2005. (Available online at http://www.epa.gov/ttn/atw/cancer_guidelines_final_3-25-05.pdf.)

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (800) 553-6847 ~~U.S. Government Printing Office, Washington, D.C. 20402, Ph: 202-783-3238~~:

Test Methods for Evaluating Solid Waste, Physical/Chemical methods, EPA Publication SW-846 (Third Edition, 1986 as amended by Updates I, II, IIA, IIB, III, IIIA, ~~and~~ IIIB, IVA and IVB).

b) This incorporation includes no later amendments or editions.

(Source: Amended at 36 Ill. Reg._____, effective_____)

SUBPART B: OPERATING STANDARDS FOR CCDD FILL OPERATIONS

Section 1100.201 Prohibitions

a) *No person shall conduct any* CCDD *fill operation in violation of* the *Act or any regulations or standards adopted by the Board.* [415 ILCS 5/22.51(a)].

b) CCDD fill operations must not accept waste for use as fill.

c) CCDD fill operations must not be located inside a setback zone of a potable water supply well. (See Section 3.160(b)(i) of the Act.)

d) *No person shall use soil other than uncontaminated soil as fill material at a CCDD fill operation.* [415 ILCS 5/22.51(g)(1)]

e) *No person shall use construction or demolition debris other than CCDD as fill material at a CCDD fill operation.* [415 ILCS 5/22.51(g)(2)]

f) Except as provided in Section 1100.212 of this Part, no person shall use painted clean construction or demolition debris (painted CCDD) as fill material at a CCDD fill operation.

g) CCDD fill operations must not accept uncontaminated soil with pH outside the range of 6.25 to 9.0.

(Source: Amended at 36 Ill. Reg._____ effective_____)

Section 1100.203 Annual Facility Map

The owner or operator must submit an annual facility map with the annual report required under Section 1100.211 to the Agency each calendar year by the date specified in the Agency permit. The map must have a scale no smaller than one inch equals 200 feet, show the horizontal extent of filled areas as of the date of the map, and show the same information as required for facility plan maps under Sections 1100.305(a) through (d) ~~of this Part~~.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.204 Operating Standards

a) Placement of Fill Material
Fill material must be placed in a safe manner that protects human health and the environment in conformance with the provisions of the Act and the regulations adopted under the Act.

b) Size and Slope of Working Face
The working face of the fill operation must be no larger than is necessary, based on the terrain and equipment used in material placement, to conduct operations in a safe and efficient manner in conformance with the provisions of the Act and the regulations adopted under the Act.

c) Equipment
Equipment must be maintained and available for use at the facility during all hours of operation, so as to achieve and maintain compliance with the requirements of this Part.

d) Utilities
All utilities, including but not limited to heat, lights, power, and communications equipment, necessary for safe operation in compliance with the requirements of this Part must be available at the facility at all times.

e) Maintenance
The owner or operator must maintain and operate all systems and related appurtenances and structures in a manner that facilitates proper operations in compliance with this Part.

f) Dust Control
The owner or operator must implement methods for controlling dust so as to minimize off-site wind dispersal of particulate matter.

g) Noise Control
The facility must be designed, constructed, and maintained to minimize the level of equipment noise audible outside the site. The facility must not cause or contribute to a violation of the Board's noise regulations or Section 24 of the Act.

h) Fill Elevation
The owner or operator must not place CCDD used as fill *higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area.* [415 ILCS 5/3.160(b)]

BOARD NOTE: This does not prohibit non-CCDD materials, such as uncontaminated soil and other non-waste material, from being placed above grade in accordance with the Act and regulations adopted thereunder to increase elevations at the fill site.

i) Mud Tracking
The owner or operator must implement methods to minimize tracking of mud by hauling vehicles onto public roadways.

j) Odor and Nuisance
The fill operation must not cause foul odors or other nuisance.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.205 Certifications and Load Checking

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:

1) For all soil, including soil mixed with CCDD, obtain:

A) a certification from the source site owner or source site operator: that the site is not a potentially impacted property and is presumed to be uncontaminated soil, and soil pH is within the range of 6.25 to 9.0. A certification under this subsection (a)(1)(A) must include soil pH testing results to show that the soil pH is within the range of 6.25 to 9.0. If soil is consolidated from more than one source site, a certification must be obtained from each source site owner or source site operator; or

B) a certification from a PE or PG: that the soil is uncontaminated soil, and the soil pH is within the range of 6.25 to 9.0. A certification under this subsection (a)(1)(B) must include analytical soil testing results to show that soil chemical constituents comply with the maximum allowable concentrations established pursuant to Subpart F of this Part, and the soil pH is within the range of 6.25 to 9.0.

2) Certifications required under subsections (a)(1)(A) and (a)(1)(B) must be on forms and in a format prescribed by the Agency and must provide, at a minimum:

A) For source site owners or source site operators who certify under subsection (a)(1)(A), the form must provide at a minimum:

i) Description of the current and past uses of the site where the soil originated, giving consideration to, but not limited to: use of the site for commercial or industrial purposes; presence of any storage tanks (aboveground or underground) being located on the site; use of the site for waste treatment or disposal; any governmental notification of environmental violations pertaining to the site; any contamination in any private wells on site that exceeds the Board's groundwater quality standards; any transformers or capacitors manufactured before 1979 being used,

stored, or disposed of on the site; and any fill dirt used at the site from either an unknown source or a site;

ii) Soil pH testing results to show that the soil pH is within the range of 6.25 to 9.0;

iii) A certification using the following language: In accordance with the Environmental Protection Act [415 ILCS 5/22.51or 22.51a] and 35 Ill. Adm. Code 1100.205(a), I _____ (owner or operator of source site) certify that this site is not a potentially impacted property and the soil is presumed to be uncontaminated soil. I also certify that the soil pH is within the range of 6.25 to 9.0. Additionally, I certify that I am either the site owner or site operator or a duly authorized representative of the site owner or site operator and am authorized to sign this form. Furthermore, I certify that all information submitted, including but not limited to all attachments and other information, is, to the best of my knowledge and belief, true, accurate and complete.

B) For PE or PG who certify under subsection (a)(1)(B), the following language: I _____ (name of licensed professional engineer or geologist) certify under penalty of law that the information submitted, including but not limited to all attachments and other information, is, to the best of my knowledge and belief, true, accurate and complete. In accordance with the Environmental Protection Act [415 ILCS 5/22.51 or 22.51a] and 35 Ill. Adm. Code 1100.205(a), I certify that the soil from this site is uncontaminated soil. I also certify that the the soil pH is within the range of 6.25 to 9.0. All necessary documentation is attached.

3) Confirm and document that the CCDD or uncontaminated soil was not removed from a site as part of a cleanup or removal of contaminants, including, but not limited to, activities conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; as part of a Closure or Corrective Action under the Resource Conservation and Recovery Act, as amended, or under an Agency remediation program, such as the Leaking Underground Storage Tank Program or Site Remediation Program, but excluding sites subject to Section 58.16 of the Act when there is no presence or likely presence of a

release or a substantial threat of a release of a regulated substance at, on, or from the real property.

4) For all testing conducted to determine that the soil is uncontaminated, obtain documentation to show that the soil was tested in accordance with the requirements of Subpart F of this Part.

5) 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)(4) 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 this subsection (a)(5);

iii) Information demonstrating that the reasons for rejection of the load have been addressed by measures that would include, but not be limited to, testing and retesting of soils or removal of nonconforming materials; 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)(5)(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)(5)(A)(iv), the information required under this subsection (a)(5) 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 PE or PG. Loads accepted pursuant to this subsection (a)(5) 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 (see subsection (b)).

~~a~~b) The owner or operator must institute and conduct a load checking program designed to detect attempts to dispose of waste at the facility. At a minimum, the load checking program must consist of the following components:

1~~a~~) Routine Inspections

A~~1~~) An inspector designated by the facility must inspect every load before its acceptance at the facility utilizing an elevated structure, a designated ground level inspection area, or another acceptable method as specified in the Agency permit. In addition to a visual inspection, the inspector must use an instrument with a photo ionization detector utilizing a lamp of 10.6 eV or greater or an instrument with a flame ionization detector, or other monitoring devices approved by the Agency, to inspect each load. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.

B~~2~~) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

2~~b~~) Random Inspections

A~~1~~) In addition to the inspections required under subsection (b)(1)~~(a) of this Section~~, an inspector designated by the facility must conduct a discharge inspection of at least one randomly selected load delivered to the facility each day. The driver of the randomly selected load must be directed to discharge the load at a separate, designated location within the facility. The inspector must conduct an inspection of the discharged material that includes, but is not limited to, additional visual inspection and additional instrument testing using the instruments required under subsection (b)~~(1)~~(A)~~(a)(1) of this Section~~. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.

B~~2~~) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

3~~c~~) Documentation of Inspection Results: The documentation for each inspection must include, at a minimum, the following:

A~~1~~) The date and time of the inspection, the date the CCDD or uncontaminated soil was received, the weight or volume of the CCDD or uncontaminated soil, the name of the hauler, the name of the hauling firm, the vehicle identification number or license plate number, the source site owner and source site operator, and the location of the site of origin of the CCDD or uncontaminated soil ~~source of the CCDD~~;

B~~2~~) The results of the routine inspection required under subsection (b)(1) ~~(a)~~ of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection;

C~~3~~) The results of any random inspection required under subsection (b)(2) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection; and

D~~4~~) The name of the inspector.

4~~d~~) Rejection of Loads

A~~1~~) If material other than CCDD or uncontaminated soil is found or suspected, the owner or operator must reject the load and present the driver of the rejected load with written notice of the following:

i~~A~~) That only CCDD or uncontaminated soil is accepted for use as fill at the facility;

ii~~B~~) The reasons for rejections of the load, that ~~That the rejected load contains or is suspected to contain material other than CCDD, and that,~~ the material must not be taken to another ~~CCDD~~ fill operation, except as provided in subsection (b)(4)(A)(iv) or the material must be ~~properly recycled or~~ disposed of at a permitted landfill;

iii~~C~~) That, for all inspected loads, the owner or operator is required to record and make available for Agency inspection, at a minimum, the date and time of the inspection, the weight or volume of the CCDD or uncontaminated soil, the name of the hauler, the name of the hauling firm, the vehicle identification number or license plate number, the source site owner and source site operator, and the location of the site of origin of the fill; and ~~source of the fill and is required to make this information available to the Agency for inspection.~~;

iv) That a load rejected from a fill operation may be accepted by the same fill operation or another fill operation if the requirements of subsection (a)(5) are satisfied.

B~~2~~) The owner or operator must ensure the cleanup, transportation, and proper disposal of any material other than CCDD or uncontaminated soil that remains at the facility after the rejection of a load.

5~~e~~) The owner or operator must take special precautionary measures ~~as specified in the Agency permit~~ prior to accepting loads from persons or sources found or suspected to be responsible for sending or transporting material other than CCDD or uncontaminated soil to the facility. The special precautionary measures may include, but are not limited to, communication with the source site owner or source site operator of the CCDD or uncontaminated soil, communication with the PE or PG certifying pursuant to subsection (a)(1)(B, questioning the driver about the load prior to its discharge, and increased visual inspection and instrument testing of the load.

6~~f~~) If material other than CCDD or uncontaminated soil is discovered to be improperly accepted or deposited at the facility, the owner or operator must remove and properly dispose of the material.

7~~g~~) The owner or operator must ensure that all appropriate facility personnel are properly trained in the identification of material that is not CCDD or uncontaminated soil.

8~~h~~) All field measurement activities relative to equipment and instrument operation, calibration and maintenance and data handling shall be conducted in accordance with the following:

A~~1~~) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Vol. One, Ch. One (Quality Control), incorporated by reference at Section 1100.104 ~~of this Part~~;

B~~2~~) The equipment or instrument manufacturer's or vendor's published standard operating procedures; or

C~~3~~) Other operating procedures specified in the Agency permit for CCDD facility or approved by the Agency in writing for an uncontaminated soil fill operation.

c~~i~~) Documentation required under this Section must be kept for a minimum of 3 years at the facility or in some alternative location specified in the Agency permit for CCDD facility, or approved by the Agency in writing for an uncontaminated soil fill operation. Documentation relating to an appeal, litigation or other disputed claim must be maintained until at least 3 years after the date of the final disposition of the appeal, litigation, or other disputed claim. The documentation must be available for inspection and copying by the Agency and by units of local government upon request during normal business hours.

d) For painted CCDD to be accepted for use as fill material in accordance with Section 1100.212, the owner or operator of the CCDD fill operation must:

1) Obtain a certification from a PE or PG that the painted CCDD satisfies the requirements of Section 1100.212. The certification required under this subsection (d)(1) must be on forms and in a format prescribed by the Agency. Documentation required by Section 1100.212(c)(2) must be attached to the certification form.

2) Comply with the load checking requirements of subsection (b).

3) Comply with the document retention requirements of subsection (c) for the PE or PG certification and the attached documentation required under Section 1100.212 (c)(2).

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.206 Salvaging

a) All salvaging operations must in no way interfere with the ~~CCDD~~ fill operation, result in a violation of this Part, or delay the construction of final cover.

b) All salvaging operations must be performed in a safe manner in compliance with the requirements of this Part.

c) Salvageable materials:

1) May be accumulated onsite by an owner or operator, provided they are managed so as not to create a nuisance, harbor vectors, cause foul odors ~~malodors~~, or create an unsightly appearance; and

2) May not be accumulated at the facility for longer than one year unless a longer period of time is allowed under the Act or is specified in the Agency permit.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.207 Boundary Control

a) Unauthorized vehicular access to the working face of all units and to all other areas within the boundaries of the facility must be restricted.

b) A permanent sign must be posted at the entrance to the facility or each unit stating that only CCDD or uncontaminated soil is accepted for use as fill.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.208 Closure

a) Completion of Filling

1) The owner or operator is deemed to have completed ~~CCDD~~ filling with CCDD or uncontaminated soil:

A) 30 days after the date on which the facility receives the final load of CCDD or uncontaminated soil for use as fill; or

B) If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional CCDD or uncontaminated soil for use as fill, no later than one year after the most recent receipt of CCDD or uncontaminated soil for use as fill.

2) The Agency must grant extensions beyond the one year deadline in subsection (a)(1)(B) if the owner or operator demonstrates that:

A) The facility has the capacity to receive additional CCDD or uncontaminated soil for use as fill; and

B) The owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the facility.

b) Closure

1) Final Cover

All filled areas must be *covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or* must be *covered by a road or structure*. [415 ILCS 5/3.160] The minimum amount of soil to support vegetation is one foot. The final surface must prevent or minimize erosion.

2) Final Slope and Stabilization

A) The final slopes and contours must be constructed to complement and blend with the surrounding topography of the proposed final land use of the area.

B) All drainage ways and swales must be constructed to safely pass the runoff from the 100-year, 24-hour precipitation event without scouring or erosion.

C) The final configuration of the facility must be constructed in a manner that minimizes erosion.

D) Standards for Vegetation

i) Vegetation must minimize wind and water erosion;

ii) Vegetation must be compatible with (i.e., grow and survive under) the local climatic conditions;

iii) Temporary erosion control measures, including, but not limited to, the application, alone or in combination, of mulch, straw, netting, or chemical soil stabilizers, must be undertaken while vegetation is being established.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.209 Postclosure Maintenance

The owner or operator must conduct postclosure maintenance in accordance with this Section and the Agency permit for a minimum of one year after the Agency issues a certificate of closure in accordance with Section 1100.412 ~~of this Part~~ unless a shorter period of time for postclosure maintenance is specified in the Agency permit. Reasons for which the Agency may specify a shorter period of time for postclosure maintenance include, but are not limited to, conformance with existing reclamation plan requirements, zoning requirements, local ordinances, private contracts, or development plans.

a) The owner or operator must remove all equipment or structures not necessary for the postclosure land use, unless otherwise authorized by the Agency permit.

b) Maintenance and Inspection of the Final Cover

1) Frequency of Inspections. The owner or operator must conduct a quarterly inspection of all surfaces during closure and for a minimum of one year after closure.

2) All rills, gullies, and crevices 6 inches or deeper identified in the inspection must be filled. Areas identified by the owner or operator or the Agency as particularly susceptible to erosion must be recontoured.

3) All eroded and scoured drainage channels must be repaired and lining material must be replaced if necessary.

4) All holes and depressions created by settling must be filled and recontoured so as to prevent standing water.

5) All reworked surfaces, and areas with failed or eroded vegetation in excess of 100 square feet cumulatively, must be revegetated in accordance with the approved closure plan for the facility.

c) The Agency must approve postclosure use of the property if the owner or operator demonstrates that the disturbance of the final cover will not increase the potential threat to human health or the environment.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.211 Annual Reports

The owner or operator must submit an annual report to the Agency each calendar year by the date specified in the Agency permit. For an uncontaminated soil fill operation, the first annual report shall be filed on the first of January that follows the year in which the facility is registered in accordance with this Part. The annual report must include, at a minimum, the following information:

a) A summary of the number of loads accepted and the number of loads rejected during the calendar year.

b) Amount of CCDD and uncontaminated soil accepted in the calendar year.

c) Amount of CCDD and uncontaminated soil expected in the next year.

d~~c~~) Any modification affecting the operation of the facility.

ed) The signature of the owner or operator, or the owner or operator's duly authorized agent as specified in Section 1100.303 ~~of this Part.~~

f) Annual facility map required pursuant to Section 1100.203.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.212 Use of Painted CCDD as Fill Material

a) For purposes of this Part, uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, or reclaimed or other asphalt pavement that has been painted (painted CCDD) may be used as fill material at a CCDD fill operation if it is evaluated analytically under the supervision of a PE or PG and if all requirements of this Section are satisfied. Acceptance or management of painted CCDD for any purpose other than use as fill material at a CCDD fill operation must be in accordance with applicable law and may require permits or beneficial use determinations from the Agency. Such other purposes include, but are not limited to, processing of painted CCDD for reuse.

1) The PE or PG must determine, on a site-specific basis, the number and location of paint samples that will provide a representative analysis of paint from the painted CCDD to be used as fill material.

2) The PE or PG must obtain paint samples consisting of representative paint chips or scrapings that include all layers of paint in the area sampled and that minimize the amount of substrate in the sample.

3) Paint samples must be analyzed for arsenic, cadmium, chromium (total), lead, mercury and zinc (contaminants of concern) using the TCLP or SPLP extraction test analytical procedures in accordance with Methods 1311 and 1312, respectively, in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," USEPA Publication No. SW-846, incorporated by reference in Section 1100.104.

A) Paint samples must not be composited for analysis, and analytical results from paint samples must not be averaged.

B) All quantitative analyses of paint samples must be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186 and the scope of the accreditation.

C) Documentation of any chemical analysis must include, but is not limited to:

i) Chain of custody control;

ii) A copy of the lab analysis;

iii) Accreditation status of the laboratory performing the analysis; and

iv) Certification by an authorized agent of the laboratory that the analysis has been performed in accordance with 35 Ill. Adm. Code 186, the Agency's rules for the accreditation of environmental laboratories and the scope of the accreditation.

4) For painted CCDD to be used as fill material, analytical results for each paint sample must not exceed the chemical-specific Class I groundwater quality standard at 35 Ill. Adm. Code 620.410 for any contaminant of concern identified in subsection (a)(3) of this Section.

b) Notwithstanding subsection (a) of this Section, broken concrete, asphalt pavement, and other roadway CCDD with pavement markings, including but not limited to striping, may be used as fill material at a CCDD fill operation provided that:

1) The pavement markings comply with IDOT specifications for pavement markings; and

2) The CCDD is accompanied by a PE or PG certification, on forms prescribed by the Agency, affirming that the pavement markings comply with IDOT specifications for pavement markings found at Section 1095 of IDOT's "Standard Specifications for Road and Bridge Construction".

(Source: Added at 36 Ill. Reg._____, effective_____)

SUBPART C: PERMIT APPLICATION INFORMATION FOR CCDD FILL OPERATIONS

Section 1100.304 Site Location Map

All permit applications must contain a site location map on the most recent United States Geological Survey (USGS) quadrangle of the area from the 7½ minute series (topographic) that clearly shows the following information:

a) The site boundaries, the facility boundaries, and all adjacent property extending at least 1000 meters (3300 feet) beyond the facility boundaries;

b) All surface waters;

c) All potable water supply wells within 1000 meters (3300 feet) of the facility boundaries;

d) All potable water supply well setback zones established pursuant to Section 14.2 or 14.3 of the Act;

e) Any wellhead protection areas pursuant to Section 1428 of the Safe Drinking Water ~~Drinking~~ Act (SDWA) (42 USC 300f) and any sole source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of SDWA; and

f) All main service corridors, transportation routes, and access roads to the site and facility.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.306 Narrative Description of the Facility

The permit application must contain a written description of the facility with supporting documentation describing the procedures and plans that will be used at the facility to comply with the requirements of this Part. Such descriptions must include, but are not limited to, the following information:

a) A description of the CCDD and the uncontaminated soil being used as fill and a load checking plan describing how the owner or operator will comply with Section 1100.205 ~~of this Part~~;

b) The types of CCDD and uncontaminated soil expected in each unit, an estimate of the maximum capacity of each unit, and the rate at which fill ~~CCDD~~ is to be placed in each unit;

c) The estimated density of the CCDD and the uncontaminated soil;

d) The length of time each unit will receive CCDD and uncontaminated soil;

e) A description of all equipment to be used at the facility for complying with the facility permit, the Act, and Board regulations;

f) A description of any salvaging to be conducted at the facility, including, but not limited to, a description of all salvage facilities and a description of how the owner or operator will comply with Section 1100.206 ~~of this Part~~;

g) A description of how the owner or operator will comply with the requirements of Section 1100.207 ~~of this Part~~;

h) A description of how the owner or operator will comply with Sections 1100.204(c) and (e) ~~of this Part~~;

i) A description of the methods to be used for controlling dust in compliance with Section 1100.204(f) ~~of this Part~~;

j) A description of how the owner or operator will control noise in compliance with Section 1100.204(g) ~~of this Part~~; and

k) A description of all existing and planned roads in the facility that will be used during the operation of the facility, the size and type of such roads, and the frequency with which they will be used.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.307 Proof of Property Ownership and Certifications

The permit application must contain a certificate of ownership of the facility property and certifications regarding the provisions of Sections 39(i) and 39(i-5) of the Act. The owner and operator provide written notification to the Agency ~~must certify that the Agency will be notified~~ within 7 days after any changes in ownership.

(Source: Amended at 36 Ill. Reg._____, effective_____)

Section 1100.309 Closure Plan

The permit application must contain a written closure plan that contains, at a minimum, the following:

a) Maps showing the configuration of the facility after closure of all units, including, but not limited to, appropriate contours as needed to show the proposed final topography after placement of the final cover for all filled areas. All maps must have a scale no smaller than one inch equals 200 feet;

b) Steps necessary for the temporary suspension of the fill operation ~~CCDD filling~~ in accordance with Section~~Sections~~ 1100.208(a)(1)(B) or (a)(2) ~~of this Part~~;

c) Steps necessary for closure of the facility at the end of its intended operating life;

d) An estimate of the expected year of closure;

e) Schedules for temporary suspension of the fill operation ~~CCDD filling~~ and closure, which must include, at a minimum, the total time required to close the facility and the time required for closure activities that will allow tracking of the progress of closure;

f) A description of how the applicant will comply with Section 1100.208 ~~of this Part~~; and

g) A description of the final cover, including, but not limited to, the material to be used as the final cover, application and spreading techniques, the types of vegetation to be planted, and the types of roads or structures to be built pursuant to Section 1100.208 ~~of this Part~~.

(Source: Amended at 36 Ill. Reg._____, effective_____)

SUBPART D: PROCEDURAL REQUIREMENTS FOR PERMITTING
CCDD FILL OPERATIONS

Section 1100.412 Procedures for Closure and Postclosure Maintenance

a) Notification of Closure ~~Receipt of Final Volume~~

The owner or operator must provide written notification of closure to the Agency within 30 days after the date the owner or operator is deemed to have completed filling under Section 1100.208(a). ~~Within 30 days after the date the final volume of CCDD is received, the owner or operator must notify the Agency in writing of the receipt of the final volume of CCDD.~~

b) Certification of Closure

1) When the closure of the facility is complete, the owner or operator must submit to the Agency:

A) Documentation concerning closure of the facility, including, but not limited to, plans or diagrams of the facility as closed and the date closure was completed.

B) An affidavit by the owner or operator and the seal of a PE or PG ~~professional engineer~~ that the facility has been closed in accordance with the closure plan and the closure requirements of this Part.

2) When the Agency determines, pursuant to the information received pursuant to subsection (b)(1) of this Section and any Agency site inspection, that the facility has been closed in accordance with the specifications of the closure plan and the closure requirements of this Part, the Agency must:

A) Issue a certificate of closure; and

B) Specify the date the postclosure maintenance period begins, based on the date closure was completed.

c) Termination of the Permit

1) At the end of the postclosure maintenance period, the owner or operator may submit to the Agency an application for termination of the permit. The application must be submitted in a format prescribed by the Agency and must include, at a minimum, the certification of a PE or PG ~~professional engineer~~ and the affidavit of the owner or operator demonstrating that, due to compliance with the postclosure maintenance plan and the postclosure maintenance requirements of this Part, postclosure maintenance is no longer necessary because:

   A) Vegetation has been established on all nonpaved areas;

   B) The surface has stabilized sufficiently with respect to settling and erosion so that further stabilization measures, pursuant to the postclosure maintenance plan, are no longer necessary; and

   C) The owner or operator has completed all requirements of the postclosure maintenance plan.

2) Within 90 days after receiving the certification required by subsection (c)(1) ~~of this Section~~, the Agency must notify the owner or operator in writing that the permit is terminated, unless the Agency determines, pursuant to the information received pursuant to subsection (c)(1) ~~of this Section~~ and any Agency site inspection, that continued postclosure maintenance is required pursuant to the postclosure maintenance plan and this Part.

3) For purposes of appeal pursuant to Section 40(d) of the Act and the appeal provisions of this Part, Agency action pursuant to subsection (c)(2) of this Section is deemed a denial or grant of permit with conditions.

(Source: Amended at 36 Ill. Reg._____, effective_____)

SUBPART E: UNCONTAMINATED SOIL FILL OPERATIONS

Section 1100.500 Prohibitions

a) No person shall conduct any uncontaminated soil fill operation in violation of the Act or any regulations or standards adopted by the Board.

b) *No person shall use soil other than uncontaminated soil as fill material at an uncontaminated soil fill operation.* [415 ILCS 5/22.51a(b)]

c) Uncontaminated soil fill operations must not accept waste for use as fill.

d) Uncontaminated soil fill operations must not accept CCDD for use as fill.

e) Uncontaminated soil fill operations must not be located inside a setback zone of a potable water supply well.

f) Uncontaminated soil fill operations must not accept uncontaminated soil with pH outside the range of 6.25 to 9.0.

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.505 Operating Standards

Uncontaminated soil fill operations are subject to all of the standards and requirements of Sections 1100.202 through 1100.211 of Subpart B, with the following exceptions:.

a) The provisions of Sections 1100.203 and 1100.210 will not apply.

b) The owner or operator must conduct postclosure maintenance in accordance with Section 1100.209 for a minimum of one year after the Agency issues a certificate of closure pursuant to Section1100 .525 unless a shorter period of time for postclosure maintenance is approved by the Agency in writing. Reasons for which the Agency may approve a shorter period of time for postclosure maintenance include, but are not limited to, conformance with existing reclamation plan requirements, zoning requirements, local ordinances, private contracts, or development plans.

c) The owner or operator must remove all equipment or structures not necessary for postclosure land use in accordance with Section 1100.209(a) unless otherwise approved by the Agency in writing.

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.510 Recordkeeping Requirements

The owner or operator must maintain an operating record at the facility or in some alternative location approved by the Agency in writing. The owner or operator must make the operating record available for inspection and copying by the Agency upon request during normal business hours. Information maintained in the operating record must include, but is not limited to, the following:

a) Any information submitted to the Agency pursuant to this Part.

b) Written procedures for load checking, load rejection notifications, and training required under Section 1100.205.

c) A site location map as described under Section 1100.304.

d) A facility plan map as described under Section 1100.305.

e) A narrative description of the facility as described under Section 1100.306.

f) Proof of property ownership. The owner and operator must notify the Agency within 7 days after any changes in ownership.

g) A surface water control plan as described under Section 1100.308.

h) A closure plan and postclosure maintenance plan as described under Sections 1100.309 and 1100.310.

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.515 Registration

a) Owners and operators of uncontaminated soil fill operations must register the fill operation with the Agency.

1) Uncontaminated soil fill operations must be registered with the Agency within 60 days after August 27, 2012. Uncontaminated soil fill operations already registered with the Agency pursuant to Section 22.51a (c) of the Act must be re-registered in accordance with this subsection (a)(1).

2) Uncontaminated soil fill operations that first receive uncontaminated soil on or after August 27, 2012must be registered with the Agency prior to the receipt of any uncontaminated soil.

b) Registrations must be submitted on forms and in a format prescribed by the Agency and must include information set forth at Sections 1100.304 through 1100.310, excluding the certifications required under Section 1100.307.

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.520 Required Signatures

a) All registrations must contain the name, address, and telephone number of the owner and operator, and any duly authorized agents of the owner or operator to whom inquiries and correspondence should be addressed.

b) All registration applications must be signed by the owner and operator or by their duly authorized agents with an accompanying oath or affidavit attesting to the agent's authority to sign the application on behalf of the owner or operator. The following persons are considered duly authorized agents of the owner and operator:

1) For corporations, a principal executive officer of at least the level of vice president;

2) For a sole proprietorship, the sole proprietor;

3) For a partnership, a general partner;

4) For a municipality, State, federal or other public agency, by the head of the agency or a ranking elected official; and

5) For a member-managed limited liability company, by a member and for a manager-managed limited liability company, by a manager or member.

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.525 Procedures for Closure

a) Notification of Closure

The owner or operator must provide written notification to the Agency within 30 days after the owner or operator begins closure in accordance with the closure plan required by Section 1100.510(h) and the closure requirements of Section 1100.208.

b) Certification of Closure

When the closure of the facility is complete, the owner or operator must submit to the Agency:

1) Documentation concerning closure of the facility, including, but not limited to, plans or diagrams of the facility as closed and the date closure was completed.

2) An affidavit by the owner or operator and the seal of a PE or PG that the facility has been closed in accordance with the closure plan required by Section 1100.510(h) and the closure requirements of Section 1100.208.

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.530 Termination of Postclosure Maintenance

At the end of the postclosure maintenance period, the owner or operator must submit a certification by a PE or PG and an affidavit by the owner or operator demonstrating that, due to compliance with the postclosure maintenance plan and the postclosure maintenance requirements of this Part, postclosure maintenance is no longer necessary because:

a) Vegetation has been established on all nonpaved areas;

b) The surface has stabilized sufficiently with respect to settling and erosion so that further stabilization measures required by the postclosure maintenance plan are no longer necessary; and

c) The owner or operator has completed all requirements of the postclosure maintenance plan.

(Source: Added at 36 Ill. Reg._____, effective_____)

SUBPART F: STANDARDS FOR UNCONTAMINATED SOIL USED AS FILL MATERIAL AT FILL OPERATIONS REGULATED BY THIS PART

Section 1100.600 Purpose and Applicability

a) The purpose of this Subpart F is to establish standards for soils that are considered uncontaminated for purposes of this Part.

b) This Subpart F applies only to soil that is:

1) Generated during construction, remodeling, repair or demolition of utilities, structures and roads as provided in Section 3.160 of the Act ; and

2) Used as fill material at Clean Construction or Demolition Debris Fill Operations or Uncontaminated Soil Fill Operations as provided at Sections 22.51 and 22.51a of the Act and in this Part.

c) Soil that is generated during construction, remodeling, repair or demolition of utilities, structures and roads and commingled with CCDD must satisfy the standards for maximum allowable concentrations of chemical constituents in uncontaminated soil as set forth in this Subpart F if used as fill material at CCDD Fill Operations pursuant to Section 22.51 of the Act.

d) Soil or materials to which this Subpart F does not apply include, but are not limited to:

1) Soil that must be managed as hazardous waste;

2) Soil that has at any time been treated or diluted to reduce contaminant concentrations or contaminant mobility (e.g., treatment to reduce extraction test contaminant concentrations) except for soil that has been treated to reduce contaminants by physical separation from construction or demolition debris at the site where the soil was generated or at a site authorized by applicable law to perform such separation; and

3) Soil that has been *removed from a site as part of cleanup or removal of contaminants, including, but not limited to, activities conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; as part of a closure of corrective action under the Resource Conservation and Recovery Act, as amended; or under an Agency remediation program, such as the leaking Underground Storage Tank Program or Site Remediation Program, but excluding sites subject to Section 58.16 of the Act where there is no presence or likely presence of a release or a substantial threat of a release of a regulated substance at, on or from the real property* and excluding soil that is uncontaminated and has not been excavated or treated as part of the cleanup or removal of contaminants. [415 ILCS 5/22.51(f)(2)(C) and 22.51a (d)(2)(C)]

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.605 Maximum Allowable Concentrations for Chemical Constituents in Uncontaminated Soils

a) Except as provided for background concentrations in subsection (b), the maximum allowable concentrations for chemical constituents in uncontaminated soil must be determined pursuant to this subsection (a).

1) The maximum allowable concentration for a chemical constituent in uncontaminated soil will be the lowest Tier 1 chemical-specific soil value of the exposure routes for residential and construction worker receptors set forth in 35 Ill. Adm. Code 742.Appendix B, Tables A and B (e.g., soil ingestion exposure route, outdoor inhalation exposure route, soil component of the groundwater ingestion exposure route, construction worker exposure route). Class I values must be used when determining the lowest Tier 1 chemical-specific value for the soil component of the groundwater ingestion exposure route. Before making the comparison among exposure routes to determine the lowest value for ionizing organic chemical constituents and inorganic chemical constituents, the requirements of subsections (a)(2) and (a)(3) must be satisfied, as applicable.

2) For ionizing organic constituents, the lowest pH-dependent value for the soil component of the Class I groundwater ingestion exposure route in 35 Ill. Adm. Code 742.Appendix B, Table C, between column range 6.25 to 6.64 and column range 8.75 to 9.0 must be substituted for the pH-neutral value provided for the soil component of the Class I groundwater ingestion exposure route in 35 Ill. Adm. Code 742.Appendix B, Table A before determining the lowest Tier 1 chemical-specific soil value pursuant to subsection (a)(1) of this Section.

3) For inorganic constituents, the remediation objectives for the soil component of the Class I groundwater ingestion exposure route in Appendix B, Tables A and B are based on the contaminant concentration resulting from an extraction test and are not directly comparable to the remediation objectives provided for the ingestion and inhalation exposure routes, which are based on total concentrations. The following values, based on total concentrations, must be substituted for the extraction test values in Table A before determining the lowest Tier 1 chemical-specific soil value pursuant to subsection (a)(1) of this Section:

A) The lowest chemical-specific, pH-dependent value for the soil component of the Class I groundwater ingestion exposure route in 35 Ill. Adm. Code 742.Appendix B, Table C, between column range 6.25 to 6.64 and column range 8.75 to 9.0; or

B) For inorganic constituents that are listed in 35 Ill. Adm. Code 742.Appendix B, Table A but not in Appendix B, Table C, the extraction test values for the soil component of the groundwater ingestion exposure route in Appendix B, Table A may be multiplied by 20 (i.e., 20 liters/kilogram, the liquid to solid ratio in the extraction test assuming complete constituent leaching) to enable direct comparison with the ingestion and inhalation exposure route values. The resulting value must be substituted for the extraction test value before determining the lowest Tier 1 chemical-specific soil value pursuant to subsection (a)(1) of this Section.

4) If the lowest Tier 1 soil value for a chemical is less than the Acceptable Detection Limit (ADL), the ADL will serve as the lowest soil value.

5) The total concentration of organic contaminants may not exceed the attenuation capacity of the soil as determined in accordance with 35 Ill. Adm. Code 742.215 (b)(1) and (b)(1)(A) using a default value of 2000 mg/kg for the natural organic carbon fraction (f_{oc}).

b) Background concentrations from 35 Ill. Adm. Code 742.Appendix A, Tables G and H may be used as the maximum allowable concentrations at locations specified by the tables if the most stringent exposure route value for the chemical constituent, as determined pursuant to subsection (a) of this Section, is lower than the chemical's applicable background value listed in Table G or H. The chemical's applicable background value in Table G or H must be established based on the location of the fill operation where the soil is placed.

c) For chemicals not listed in 35 Ill. Adm. Code 742.Appendix B, Table A, B or C, the values may be obtained from the Agency by making a request for chemical-specific values.

1) The Agency will develop these objectives based upon USEPA's toxicity value hierarchy as specified in OSWER Directive 9285.7-53, incorporated by reference in Section 1100.104. USEPA's Integrated Risk Management System (IRIS), incorporated by reference in Section 1100.104, is the first tier of this hierarchy.

2) Calculation of the maximum allowable concentrations must use the applicable risk-based soil screening level equations from 35 Ill. Adm. Code 742.Appendix C, Table A. Default exposure durations and contact rates from 35 Ill. Adm. Code 742.Appendix C, Table B must be used in making these calculations.

3) If the person making the request of the Agency disagrees with the Agency's decision, the person who made the request may file an appeal of the Agency's decision with the Board pursuant to Section 40(a) of the Act and 35 Ill. Adm. Code 105.

d) Other provisions of 35 Ill. Adm. Code 742 (e.g., institutional controls, engineered barriers, exposure route exclusions, site-specific evaluations, local area background calculations) may not be used to exclude or otherwise alter exposure routes or exposure route values for the purpose of determining the maximum allowable concentrations under this Part.

e) For purposes of this Part, the Agency shall publish at its website a list of chemical-specific values for maximum allowable concentrations of chemical constituents in uncontaminated soils based on the methodology for determining those values set forth in this Section. In addition, the Agency shall publish at its website a list of chemical-specific values for chemicals not listed in 35 Ill. Adm. Code 742.Appendix B, Tables A, B or C when values are calculated by the Agency in accordance with subsection (c) of this Section or of 35 Ill. Adm. Code 742.510(c).

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.610 Compliance Evaluation; Performance and Documentation of Soil Sampling and Chemical Analysis

a) For purposes of this Subpart F, the chemical constituents to be evaluated and the soil sample points must be determined on a site-specific basis by the PE or PG.

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. The following procedures will be required, as applicable, when making the comparisons:

1) If the background value from 35 Ill. Adm. Code 742.Appendix A, Table G or H was determined to be the maximum allowable concentration in accordance with Section 1100.605 for an inorganic constituent or a polynuclear aromatic hydrocarbon constituent, compliance must be determined as follows:

   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 Section1100.605(a) and (b), 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, concentration 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, incorporated by reference at Section 1100.104, may be compared with the chemical's Class I soil component of the groundwater ingestion exposure route value in 35 Ill. Adm. Code 742.Appendix B, Table A.

2) For ionizing organic constituents, if, as determined pursuant to Section 1100.605, 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, 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 35 Ill. Adm. Code 742.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 20 to convert to total soil concentration values; or

C) As an alternative to subsections (b)(3)(A) and (b)(3)(B) of this Section, concentrations in the extract from TCLP or 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 35 Ill. Adm. Code742.Appendix B, Table A.

c) *Chemical analysis* of soil samples *conducted under this* Subpart F *must be conducted in accordance with the requirements of 35 Ill. Adm. Code 742 and "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" USEPA Publication No. SW-846*, incorporated by reference in Section 1100.104 [415 ILCS 5/22.51(f)(3) and 22.51a(d)(3)]. If SW-846 methods do not support detection at the concentration specified for a particular chemical constituent (e.g., aldicarb, carbofuran, endothall), the laboratory may use modified or alternative methods available to the laboratory to achieve the lowest practical detection level possible. If concentrations of these constituents in soil are demonstrated to be equal to or lower than the applicable maximum allowable concentrations using modified or alternative methods pursuant to this subsection (c), the soil may be certified as complying with the maximum allowable concentrations.

d) Compositing and averaging of soil samples.

1) Samples must not be composited for analysis, except as specified in subsection (d)(2).

2) Samples taken from a site that is not a potentially impacted property may be composited for analysis if samples are composited in accordance with 35 Ill. Adm. Code 742.225(c) and (d).

3) Analytical results of soil samples from subsections (d)(1) and (d)(2) must not be averaged.

e) All quantitative analyses of samples must be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186 and the scope of the accreditation. *Documentation of any chemical analysis must include, but is not limited to:*

1) Chain of custody control;

2) *A copy of the lab analysis;*

3) *Accreditation status of the laboratory performing the analysis; and*

4) *Certification by an authorized agent of the laboratory that the analysis has been performed in accordance with the Agency's rules for the accreditation of environmental laboratories and the scope of the accreditation.* [415 ILCS 5/22.51(f)(2)(D)]

(Source: Added at 36 Ill. Reg._____, effective_____)

Section 1100.615 Waste and Materials Other Than Chemical Constituents in Soils

For purposes of this Part:

a) Uncontaminated soil may include incidental amounts of stone, rock, gravel, roots, and other vegetation.

b) Except as provided in subsection (a), soil containing waste or other materials or exceeding the standards for chemical constituents in uncontaminated soil is not uncontaminated soil and must be managed in accordance with applicable provisions of the Act and 1100.605.

1) Soil satisfying the standards for chemical constituents in uncontaminated soil but that is commingled with general construction or demolition debris is general construction or demolition debris and must be managed as such in accordance with applicable provisions of the Act and 1100.605. (See 415 ILCS 5/3.160(a).)

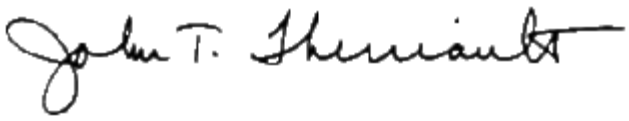
2) Soil satisfying the standards for chemical constituents in uncontaminated soil but that is commingled with clean construction or demolition debris is clean construction or demolition debris and must be managed as such in accordance with applicable provisions of the Act and implementing rules. (See 415 ILCS 5/3.160(b).)

(Source: Added at 36 Ill. Reg._____, effective_____)

IT IS SO ORDERED.

Board Member J. A. Burke abstains.
Board Member C.K. Zalewski abstains.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 23, 2012, by a vote of 3-0.



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John T. Therriault, Assistant Clerk
Illinois Pollution Control Board