

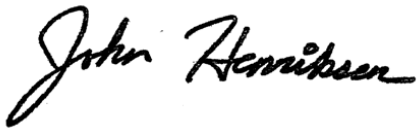
ILLINOIS POLLUTION CONTROL BOARD

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

NOTICE OF FILING

TO: SEE ATTACHED PROOF OF SERVICE

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois Association of Aggregate Producers Post-Hearing Comments, copies of which are served upon you.



---

John Henriksen, Executive Director  
Illinois Association of Aggregate Producers  
1115 South Second Street  
Springfield, IL 62704  
217.241.1639

Date: August 1, 2013

ILLINOIS POLLUTION CONTROL BOARD

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

THE ILLINOIS ASSOCIATION OF AGGREGATE PRODUCERS  
POST-HEARING COMMENTS

In accordance with Hearing Officer Tipsord’s June 12, 2013 Order, the Illinois Association of Aggregate Producers (IAAP) submits the following Post-Hearing Comments regarding the groundwater monitoring program set forth in Part 1100, Subpart G. These comments outline the historical development of the clean fill industry, as well as clean fill legislation, in order to put into context the aggregates industry’s current opposition to groundwater monitoring at Clean Construction or Demolition Debris (CCDD) or registered Uncontaminated Soil Fill (USF) sites.

The Evolution of Clean Fill Operations

The IAAP represents companies that mine and produce crushed stone, sand, gravel, silica sand and agricultural lime: “aggregates.” In addition to producing aggregates, a number of IAAP member companies have accepted, as fill, clean construction or demolition debris -- broken concrete without protruding metal bars, bricks, rock, stone, reclaimed asphalt pavement or uncontaminated soil generated from construction or demolition activities.

Aggregate producers use clean fill to accelerate the reclamation of excavations generated by mining. Land disturbed by mining operations is thereby made ready for a variety of post-mining uses: commercial, industrial, recreational or residential. Aggregate mines have historically charged only nominal fees for clean fill disposal in comparison to the high tipping fees for these materials assessed by solid waste landfills.

As outlined in the July 19, 2013 Post-Hearing Comments filed in this proceeding by VCNA Prairie, Inc., contractors may also arrange to load trucks used to deposit clean fill with a load of aggregates for the return trip to the construction site, thereby ensuring that these vehicles are loaded for both legs of the trip. This cycle is then repeated until the construction project is complete. Having the contractor’s trucks loaded with material in both directions cuts down on the number of vehicles on the road, and therefore reduces fuel consumption, wear-and-tear on already deteriorating roadways and the overall carbon footprint of construction activities.

For decades, IAAP members accepted millions of tons of materials generated by construction and demolition activities. Yet as the State’s regulatory oversight of clean fill sites has intensified, the number of Illinois pits and quarries accepting these materials has steadily declined. The ever shrinking number of IAAP members continuing to operate permitted CCDD or registered USF sites provide an economical way to handle materials that cannot be incorporated into building sites. It is critical to bear in mind that costs increase for all sectors of our State’s construction

industry as these CCDD and USF sites go out of business. Every ton of material not accepted at one of these sites will either be taken to a solid waste landfill (thereby reducing the useful life of these landfills and increasing costs for the generator) or dumped at a non-regulated site.

### The Evolution of Clean Fill Legislation

Until 1997, IAAP member companies accepted clean construction or demolition debris with little regulatory oversight by the Illinois Environmental Protection Agency (Agency) since these materials were not treated as “wastes” regulated by the Illinois Environmental Protection Act (Act). However, environmental pollution concerns caused by a small number of fill site operators who elected to accept construction or demolition debris (CCD) not suitable for use as clean fill (such as contaminated soil, lumber, shingles, drywall, etc.) or accumulated CCD in extensive, above grade piles, resulted in two amendments to the Act changing how clean fill was regulated.

In response to environmental pollution issues associated with illegal dump sites such as the J.T. Einoder, Inc. operation in Lynwood, Illinois, the Act was amended by Public Act 90-475, effective August 17, 1997, in order to separate CCD into “General” and “Clean” categories. As defined in new Section 3.78a, Clean CCD – broken concrete without protruding metal bars, bricks, rock, stone, reclaimed asphalt pavement or uncontaminated soil – could still be accepted as fill so long as these materials were placed at or below grade and then covered with clean soil, a structure or a road once filling was completed. [415 ILCS 5/3.78a (1997)].

In contrast, General CCD – a broader range of materials not suitable for use as clean fill such as “non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles . . .” were subject to greater Agency scrutiny. [415 ILCS 5/3.78 (1997)]. Unlike Clean CCD, these materials would either have to be dumped in solid waste landfills subject to groundwater monitoring controls or sent to transfer/recycling facilities that ensured, among things, that the site operator “control, manage, and dispose of any storm water runoff and leachate generated at the facility in accordance with applicable federal, State, and local requirements.” [415 ILCS 22.38 (b)(8)].

Public Act 90-344, effective January 1, 1998, amended Section 21 of the Act to require sites generating or accepting either General or Clean CCD to maintain records documenting, by date, the volumes of such materials generated and received. [415 ILCS 5/21v and 5/21w (1998)]. Public Acts 90-344 and 90-475 were logical responses by the Agency to the actions of rogue fill site operators who knowingly accepted waste materials instead of clean fill. It is important to note that neither piece of Agency-supported legislation required CCDD operations to implement groundwater monitoring programs.

Despite these positive legislative changes, clean fill sites operated by aggregate producers remained concerned that they might become subject to burdensome regulatory oversight due to the actions of illegal fill site operators. For that reason the IAAP began discussions with the Agency in 1999 regarding **voluntary** best management practices for aggregate mines that accept CCDD. This effort resulted in the development of IAAP Best Management Practices (BMPs) for clean fill that were endorsed by the Agency’s Bureau of Land on July 13, 2004. The IAAP BMPs along with the Agency endorsement letter are attached as IAAP Exhibit A.

As outlined in the endorsement letter from William C. Child, Chief, Bureau of Land: “I want to thank the IAAP for going ‘beyond compliance’ with regards to the acceptance and management of clean construction and demolition debris and for involving Bureau of Land staff in the development of this procedure.” The BMPs referenced in this letter outlined guidelines designed to assist clean fill site operators, including sections relating to agency notification, detailed operational procedures, regulatory compliance, material assessment (screening), record retention and material manifesting. The voluntary industry guidelines endorsed by the Agency – guidelines that went “beyond compliance” – did not include groundwater monitoring programs.

On July 19, 2005, Governor Blagojevich signed legislation (Public Act 94-272) authorizing a more rigorous regulatory scheme for the disposal of CCDD. This legislation was not an Agency initiative given the lack of any significant threat to the environment or to public health linked to the disposal of clean fill at aggregate mines or other legitimate sites operating in accordance with the Act. P.A. 94-272 was enacted solely as a response to the exploits of an operator who elected to accept General CCD at an abandoned quarry and then foolishly claimed that he was exempt from Agency enforcement given his alleged ties to the Governor’s family.

New Section 22.51(c)(1) enacted by Public Act 94-272 required the Board to adopt regulations that “shall include but not be limited to standards for clean construction or demolition debris fill operations and the submission and review of permits.” In response to this mandate, the IAAP Clean Fill Work Group that had previously authored the BMPs endorsed by the Agency helped to develop a workable regulatory system for CCDD operations – the proposed Part 1100 rules. The proposed rules created by the Agency, in consultation with the mining and construction industries, created the first comprehensive scheme for CCDD disposal.

During the Board’s rulemaking proceeding relating to proposed Part 1100, the Office of the Attorney General (OAG) commented that the Agency’s clean fill rules should contain groundwater monitoring. [PCB R6-19; June 8, 2006 Public Comments of the OAG, pp. 5-9]. However, the Board rejected this argument noting that the groundwater monitoring regimes cited by the OAG were appropriate for inert waste landfills that accept General CCD rather than for the facilities that accept clean fill, pursuant to Part 1100 of the Agency’s rules. [PCB R6-19; Opinion and Order of the Board, July 6, 2006, page 7]. In short, the Part 1100 rules proposed by the Agency and approved by the Board did not require clean fill sites to implement a groundwater monitoring regime, notwithstanding the Agency’s authority to mandate such program under Section 22.51(c) of the Act or under the broad provisions of the Illinois Groundwater Protection Act [415 ILCS 55] effective September 24, 1987.

The preceding historical and legislative background is offered to put into context the aggregates industry’s current opposition to groundwater monitoring at Clean Construction or Demolition Debris (CCDD) or registered Uncontaminated Soil Fill (USF) sites. Until the publication of proposed Part 1100, Subpart G, the Agency had never recommended – let alone required – groundwater monitoring at CCDD disposal sites. When you consider that the 2005 legislation creating the CCDD regulatory program was not an Agency initiative, together with the fact that the Agency has never recorded a groundwater violation associated with sites regulated under Part 1100, the Agency’s prior decision not to impose this regulatory burden upon the clean fill industry was correct.

The Board Properly Rejected Part 1100, Subpart G (Groundwater Monitoring)

Concerned that existing law did not provide a clear definition of “uncontaminated soil” suitable for acceptance at CCDD sites, a group of fill site operators guided Public Act 96-1416 through the Illinois General Assembly in 2010. In order to create the regulatory “bright line” sought by these operators, this new legislation required the Board to adopt “rules specifying the maximum concentrations of contaminants that may be present in uncontaminated soil” accepted as fill. [415 ILCS 5/3.160(c)]. This legislation also required the Board to adopt rules for the use of clean construction or demolition debris and uncontaminated soil as fill material at these operations that include “standards and procedures necessary to protect groundwater . . . .” [415 ILCS 5/22.51 (f)(1) and 5/22.51a (d)(1)]. In 2011, the Agency filed proposed rules in response to Public Act 94-1416, including the groundwater monitoring program in Part 1100, Subpart G.

After significant written and oral testimony during two days of hearing, the Board issued an order approving amendments to Part 1100. The Board’s Order rejected Subpart G and held:

“The Board finds that the statutory directive to protect groundwater does not equate to requiring groundwater monitoring. With strengthened soil certification and testing and record keeping, groundwater will be protected from contamination under the Board’s rules. While the Board may adopt rules based on policy reasons, in this instance the Board is furthering the policy of groundwater protection without requiring groundwater monitoring. Based on this record, the Board finds that groundwater monitoring is not required and the Board will not restore Subpart G, groundwater monitoring, to the rule.” [PCB R12-9; Opinion and Order of the Board, June 7, 2012, page 89].

On Second Notice, the Board affirmed its decision to reject Subpart G. Specifically, the Board held: “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. [PCB R12-9; Opinion and Order of the Board, August 23, 2012, page 5].” Although the Board agreed to open up Subdocket B to consider additional comments, it is clear that the decision to reject Subpart G was correct given the lack of any new arguments or relevant evidence submitted during this proceeding in support of groundwater monitoring.

The Alleged Potential for Groundwater Pollution is an Erroneous Basis for Adopting Subpart G

A recurring argument in this proceeding is that Subpart G should be imposed due to the alleged **potential** for groundwater pollution from CCDD and USF sites notwithstanding implementation of the certification and load checking program set forth in Section 1100.205. Although this argument is raised by a number of parties, this notion is nicely summarized in the Agency’s December 12, 2012 Comments on Groundwater Monitoring, at page 9:

The Agency emphasizes it is not suggesting that any specific facilities are currently, or will become, sources of groundwater contamination. The Agency's larger point is that CCDD and uncontaminated soil fill operations must be considered to have the potential to cause groundwater contamination. Because of the State's policy of preventing groundwater contamination and protecting groundwater resources for current and future beneficial uses, this potential is reason enough to justify groundwater monitoring at fill operations.

The Agency then cites the Board's decision in PCB R89-5 imposing groundwater monitoring at facilities handling pesticides and fertilizer, based upon the Illinois Groundwater Protection Act (IGPA), as a sound rationale for imposing groundwater monitoring for CCDD and USF sites. [PCB R12-9(B); December 12, 2012 Agency Comments on Groundwater Monitoring, pp. 14-17]. However, this argument is without merit.

First, the Board decision cited in support of this argument is grounded upon the need for groundwater monitoring and sampling at sites that accept materials certain to cause pollution if released – such as the hazardous waste, pesticides, fertilizer, road oil and deicing agents regulated under Parts 615 and 616 of the Agency's rules. Unlike these facilities, sites regulated under Part 1100 are required to implement a certification and load checking program to ensure that contaminated soil is not accepted. The materials deposited at sites regulated under Part 1100 have a **low potential** for groundwater pollution given the mandated certification and load checking program for soil accepted as fill; in contrast, materials accepted at sites regulated under Parts 615 and 616 are **certain** to pollute groundwater, if released. In essence, the Board properly applied the IGPA to require groundwater monitoring at facilities that accept materials known to pollute groundwater and properly declined to do so for CCDD and USF sites.

Second, asserting that the IGPA, enacted in 1987, now warrants groundwater monitoring for sites regulated by Part 1100 ignores that:

- The Agency elected not to begin imposing groundwater monitoring at clean fill sites upon the enactment of the IGPA in 1987.
- The Agency did not include groundwater monitoring as part of the 1997 changes to the Act that began regulating CCDD accepted as fill.
- The Agency did not suggest that groundwater monitoring be implemented at clean fill sites when its personnel worked with industry to develop BMPs that went “beyond compliance”.
- The Agency chose not to include groundwater monitoring as part of the 2006 amendments to the Act or within the provisions of the Part 1100 developed to implement these changes.

IAAP members were accepting clean construction and demolition debris for use as fill in 1987 and continue to do so today at the 49 permitted CCDD and 18 permitted uncontaminated soil fill operations regulated by the Agency. [PCB R12-9(B); May 20, 2013 Hearing Transcript, page 131]. And despite concerns about environmental pollution associated with illegal fill operations, such as the J.T. Einoder, Inc. site in Lynwood, Illinois, the Agency did not push for groundwater monitoring at clean fill sites until the proposed amendments to Part 1100 were filed in 2011.

The Agency has continued to push for these unneeded provisions even after the Board rejected Subpart G – and found that the strengthened soil certification, testing and record keeping requirements in Part 1100, as amended, will protect groundwater from contamination. Moreover, the laser-like focus on groundwater monitoring for the 49 CCDD and 18 USF sites regulated by the Agency is exceedingly hard to understand given the proliferation of unregulated “clean fill” dumps scattered throughout Illinois, as outlined more fully below.

During the May 20, 2013 hearing in this proceeding, and in response to the IAAP's pre-filed questions, Agency representatives testified that pits approved in accordance with Illinois Department of Transportation (IDOT) specifications are allowed to accept CCDD or uncontaminated soil from State, county or municipal road projects without load checking or groundwater monitoring. [PCB R12-9(B); May 20, 2013 Hearing Transcript, pp. 136-139, 147 and May 13, 2013 Agency Response to Pre-Filed Questions, pp 1-8]. For example, the Maclair Asphalt borrow pit discussed during the hearing, as outlined in Hearing Exhibit No. 65, received CCDD from various government road projects over a 5-year period without any of the load checking procedures set forth in Section 1100.205, let alone any of the groundwater monitoring procedures required by Subpart G.

More significantly, the Maclair Asphalt borrow pit is not an isolated instance within Illinois. As stated within the IDOT Freedom of Information Act response attached as IAAP Exhibit B, this dump site is only one of literally thousands of borrow and waste pits authorized by the State – sites with absolutely no regulatory oversight by the Agency.

Agency personnel also testified during the May 20, 2013 hearing that CCDD can be dumped in any farm field, ravine or low lying area without obtaining an Agency permit or even registering with the Agency as long as this material is placed below grade. [PCB R12-9(B); May 20, 2013 Hearing Transcript, pp. 132–134]. These essentially unregulated sites have none of the controls outlined within IDOT specifications, none of the upfront testing, certification and load checking controls set forth in Section 1100.205 and no groundwater monitoring.

In summary, after materials are found to be CCDD or uncontaminated soil pursuant to IDOT specifications, these materials are then dumped into borrow or waste pits by IDOT contractors, or by contractors working for county, municipal or township road authorities. After disposal, no further regulatory controls are placed upon these materials by any entity – including the Agency. Moreover, the Agency asserts no jurisdiction over the countless sites that currently accept waste materials that are not even subject to IDOT environmental specifications. Adopting Subpart G based upon the alleged potential for groundwater pollution at the only sites that actively control groundwater contamination from CCDD or uncontaminated soil – the 49 CCDD and 18 USF sites currently regulated by the Agency under Part 1100 – is clearly erroneous.

#### No Relevant Instances of Groundwater Pollution Are Cited In Support of Subpart G

The Agency, OAG and other parties to this proceeding have focused a lot of attention on the alleged **potential** for groundwater pollution associated with CCDD and USF operations since they have not cited one **actual** example of groundwater pollution attributable to sites regulated under Part 1100. The only example of groundwater pollution cited by the parties is the illegal dump operated by J.T. Einoder, Inc. in Lynwood, Illinois – a pre-law site that accepted CCDD and non-CCDD materials without implementing any of the soil certification, testing, record keeping and screening requirements in Part 1100, as amended. [PCB R12-9(B); May 20, 2013 Hearing Transcript, pp. 151-152]. In short, none of the enforcement actions enumerated by any party to this proceeding are relevant since the cases cited do not find that groundwater pollution has occurred at permitted CCDD and registered USF sites.

During the May 20, 2013 hearing, the Agency did testify that soil samples were taken by Agency personnel from 12 permitted CCDD and registered USF sites in 2012 and analyzed for pH,

metals and semi-volatiles. [PCB R12-9(B); May 20, 2013 Hearing Transcript, pp. 147-148]. However, the Agency confirmed that the test results from these soil samples were not good indicators that any contaminants detected might leach into the groundwater. [PCB R12-9(B); May 20, 2013 Hearing Transcript, pp. 148-149]. In fact, as outlined by the OAG during the May 20, 2013 hearing, the only groundwater monitoring results in the record taken from sites regulated under Part 1100 – and therefore the only evidence relevant to this proceeding – shows that no pollution has occurred. [PCB R12-9(B); May 20, 2013 Hearing Transcript, pp. 94-95]. In summary, no party to this proceeding is able to cite a relevant instance of groundwater pollution in support of the argument that Subpart G must be adopted in order to provide adequate groundwater protection at sites regulated under Part 1100.

### Conclusion

IAAP members that currently accept CCDD and USF are willing to be regulated in accordance with Part 1100, as approved by the Board on August 23, 2012. The comprehensive CCDD and USF regulatory scheme approved by Board is reasonable and adequately protects the environment from air, land and water pollution. Requiring these sites to also implement the Subpart G groundwater monitoring program is a costly and unreasonable addition to the regulatory burden already accepted by CCDD and USF sites – a burden not shared by the thousands of unregulated “clean fill” sites located throughout Illinois.

Adopting Subpart G will force many of the remaining regulated sites out of the clean fill business given their very legitimate concerns about potential liability for groundwater pollution not caused by their operations. Forcing aggregate mines out of the clean fill acceptance business will increase the costs of building and maintaining airports, schools and other public works as well as the commercial and residential construction driving our State’s economic recovery. The only winners in that likely scenario would be the solid waste landfill operators who pick up additional customers and collect higher tipping fees. The clear losers would be the taxpayers saddled with additional construction costs associated with higher tipping fees, as well as additional environmental impacts associated with the increase in unregulated dumping of construction and demolition debris.

The Board’s decision to reject Subpart G was correct when issued and remains correct given the lack of any new arguments or relevant evidence to the contrary offered in this proceeding.

Respectfully submitted,

ILLINOIS ASSOCIATION OF  
AGGREGATE PRODUCERS



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John Henriksen, Executive Director  
Illinois Association of Aggregate Producers  
1115 South Second Street  
Springfield, IL 62704  
217.241.1639





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601  
ROD R. BLAGOJEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

217/785-9407  
TDD #217/782-9143

July 13, 2004

Mr. John Henriksen, Executive Director  
Illinois Association of Aggregate Producers  
1115 S. 2<sup>nd</sup> Street  
Springfield, Illinois 62704

Re: Clean Construction and Demolition Debris

Dear Mr. Henriksen:

The final draft of the IAAP's Best Management Practices for accepting clean construction and demolition debris has been reviewed. No further comments or changes are recommended.

I want to thank the IAAP for going "beyond compliance" with regards to the acceptance and management of clean construction and demolition debris and for involving Bureau of Land staff in the development of this procedure.

Respectfully,

A handwritten signature in cursive script that reads "William C. Child".

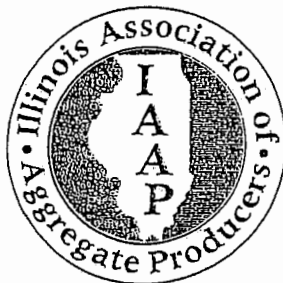
William C. Child, Chief  
Bureau of Land

WCC:rd\JohnHenriksen

IAAP Exhibit A

**Illinois Association of  
Aggregate Producers**

John Henriksen, Executive Director  
Glenda Schoening, Office Manager



1115 S. 2nd Street  
Springfield, IL 62704

(217) 241-1639  
Fax (217) 241-1641  
Email: iaap@hansoninfosys.com

June 22, 2004

Bill Child, Chief  
IEPA, Bureau of Land  
1021 North Grande Ave East, PO Box 19276  
Springfield, IL 62794-9276

Re: Clean Construction and Demolition Debris

Dear Mr. Child:

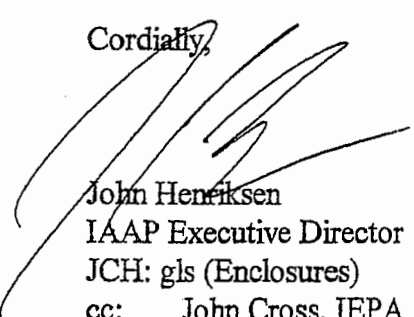
Please find enclosed the final draft of the IAAP's Best Management Practices ("BMPs") for Accepting Clean Construction and Demolition Debris as well as a form manifest.

The enclosed BMPs were developed as a guidance document for crushed stone, sand and gravel producers who accept clean construction and demolition debris for use as fill materials. The BMPs also include a form for notifying the IEPA when an aggregate producer intends to begin accepting clean construction and demolition debris. Finally, please find enclosed a form manifest for use by entities that generate and transport clean construction and demolition debris and/or clean soil.

Mike Nechvatel and Paul Purseglove both reviewed these documents as they were being developed. The enclosed BMPs embody their comments and suggestions. Although we are ready to begin distributing these documents to IAAP members, I would appreciate you taking a look at our BMPs and letting me know if you have any questions or concerns.

I appreciate working with your agency on this important issue.

Cordially,



John Henriksen  
IAAP Executive Director  
JCH: gls (Enclosures)

cc: John Cross, IEPA  
Mike Nechvatel, IEPA  
Gary OToole, Material Service Corporation  
Paul Purseglove, IEPA  
Randi Wille, Meyer Material Company

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**Illinois Association of Aggregate Producers (IAAP)**

**Best Management Practices for Accepting  
Clean Construction and Demolition Debris**

**1. Agency Notification**

- Name, address and telephone number of both the facility owner and operator.
- The street address and location of the facility.
- A brief description of the material acceptance and placement activities to be performed on site.
- Notification should include the Illinois EPA-BOL site ID # (if one has been assigned to your facility).
- Refer to attached notification form

Notifications should be sent to:

Illinois EPA  
Manager, BOL Field Operations  
1021 North Grand Avenue East  
Springfield, IL 62794-9276

**2. Operational Procedures**

Aggregate facilities accepting clean construction or demolition debris should develop written, site-specific operational procedures outlining:

- risk management
- source assessment
- material manifesting
- material assessment (screening)
- material deposition
- contamination response
- site security
- control of fugitive dust sources
- employee training

These procedures should be documented and executed in accordance with prudent business practices and sound scientific standards.

### **3. Regulatory Compliance**

- Material will not be accepted as clean construction or demolition debris that is classified as "waste" under federal or state law.
- All facilities operating a material receipt program will document operational procedures, including material assessment (screening) and manifesting to conform to the Illinois clean construction debris requirements

### **4. Material Assessment (Screening)**

Each truckload of material should be screened for adherence to clean construction or demolition debris requirements. On occasion, loads may arrive that appear upon visual and olfactory inspection, to meet clean construction or demolition debris requirements. Once the load is dumped however, it may be found to contain unacceptable wastes. Provisions should be made at each fill site to segregate this waste and contain it for subsequent off-site disposal, or to reload the vehicle and return the materials to the generator.

### **5. Record Retention**

The following information must be retained for a minimum of three years:

- The name of the hauler, the name of the generator and place of origin of the debris or soil
- The approximate weight or volume of the debris or soil
- The date and time the debris or soil was received
- The approximate placement of the debris or soil within the facility
- The location of the facility where the debris or soil was disposed or recycled
- Owner or operator of the facility where the debris or soil was disposed or recycled

### **6. Material Manifesting**

- For generators, transporters and/or recyclers
- Documentation must be completed for each load
- Information must be retained for a minimum of 3 years

(See attached form)

**Illinois Association of Aggregate Producers (IAAP)  
Agency Notification for the  
Acceptance of Clean Construction and  
Demolition Debris**

New Site

Change of Information

**OWNER/OPERATOR INFORMATION**

<b>NAME:</b>	<b>LAST</b>	<b>FIRST</b>	<b>MIDDLE INITIAL (OR COMPANY NAME)</b>		
<b>MAILING ADDRESS:</b>					
<b>CITY:</b>			<b>STATE:</b>		<b>ZIP</b>
					<b>:</b>
			<b>TELEPHONE NUMBER:</b>		

**FACILITY/SITE INFORMATION**

<b>FACILITY NAME:</b>		<b>CONTACT PERSON:</b>	
<b>FACILITY LOCATION:</b>		<b>TELEPHONE NUMBER:</b>	
<b>CITY:</b>		<b>ST:</b>	<b>IL</b>
		<b>ZIP:</b>	

**Facility IEPA-BOL Identification Number (if applicable):** \_\_\_\_\_

**Describe how the fill material is evaluated for acceptance and where it will be placed on site:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name (print/type):** \_\_\_\_\_ **Telephone:** \_\_\_\_\_

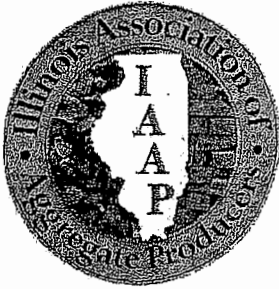
**Preparer's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Mail Original to:** Illinois EPA  
 Manager, BOL Field Operations  
 1021 North Grand Ave. East  
 Springfield, IL 62794-9276

**Generation, Shipment, and Recycling Documentation  
Clean Construction Debris (CCD) and/or Clean Soil  
Illinois Environmental Protection Act, Section 21(w)**

<b>Generator Information</b>		<b>Date of Shipments:</b>
Generator Name, Address, and Phone Number:		Contact Person(s):
<b>Site, Property or Facility of Origin Information</b>		
Site, Property, Facility Address/Location (if different):		Contact Person(s):
<b>Hauler Information</b>		
Hauler Name, Address, and Phone Number:		Contact Person(s):
		Tons or Yards in Load:
		Truck and/or Trailer I.D. Numbers:
<b>Location, Owner/Operator Accepting CCD and/or Soils</b>		
Site Name, Address, and Phone Number:		Facility IEPA/BOL Identification Number (if applicable):
Contact Person(s):		
Owner/Operator Name, Address, and Phone Number (if different):		Contact Person(s):

**For Transportation/Recordkeeping Only.  
Retain Document for 3 Years.**



Illinois Association of Aggregate Producers

1115 S. 2nd Street • Springfield, Illinois 62704

Phone (217) 241-1639 Fax (217) 241-1641 www.iaap-aggregates.org

John Henriksen, Executive Director  
Shawn McKinney, Outreach Manager  
Glenda Schoening, Office Manager

iaap@hansoninfosys.com  
shawn@hansoninfosys.com  
glenda@hansoninfosys.com

May 29, 2013

Barbara Brush  
Office of Legal Counsel  
IDOT, Division of Highways  
2300 South Dirksen Parkway  
Springfield, Illinois 62764

DEPT OF TRANSPORTATION  
RECEIVED  
2013 MAY 30 P 2 39  
OFFICE OF CHIEF COUNSEL  
SPRINGFIELD, IL 62764

Re: FOIA Request re: IDOT Borrow Pits / Waste Sites

Dear Ms. Brush:

The Illinois Association of Aggregate Producers (IAAP) is currently participating in a rulemaking hearing examining an additional set of regulatory requirements the IEPA is proposing for some of its members' clean fill operations. Data relating to borrow pits and waste sites approved by the Illinois Department of Transportation (IDOT) is relevant to that proceeding. To that end I would appreciate receiving your agency's responses to the following questions:

How many borrow pit applications did IDOT approve during FY 2012?

How many waste pit applications did IDOT approve during FY 2012?

How many borrow pit applications did IDOT approve during FY 2011?

How many waste pit applications did IDOT approve during FY 2011?

During the past 20 years, has IDOT approved in excess of 100 borrow pit applications each year?

During the past 20 years, has IDOT approved in excess of 100 waste pit applications each year?

Does State or Federal law require that a groundwater monitoring system be installed for borrow pits or waste pits approved by IDOT?

Respectfully,

John Henriksen, Executive Director  
Illinois Association of Aggregate Producers

JCH/gls

Cc: John Baranzelli

IAAP Exhibit B

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# Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

DATE: June 13, 2013

FOIA No.: CO-13-0226

Mr. John Henriksen  
Executive Director  
Illinois Association of Aggregate  
Producers  
1115 S. 2<sup>nd</sup> Street  
Springfield, IL 62704

File Reference No.: Illinois Freedom of  
Information Act -

Sent via e-mail to:  
[iaap@hansoninfosys.com](mailto:iaap@hansoninfosys.com)

The Department has reviewed your request for documents under the Freedom of Information Act.

Your request is granted.

1. How many borrow pit applications did IDOT approve in FY 2012? 134
2. How many waste pit applications did IDOT approve during FY 2012? 819
3. How many borrow pit applications did IDOT approve in FY 2011? 137
4. How many waste pit applications did IDOT approve during FY 2011? 949
5. During the past 20 years, has IDOT approved in excess of 100 borrow pit applications each year? Yes
6. During the past 20 years, has IDOT approved in excess of 100 waste pit applications each year? Yes
7. Does state or federal law require that a groundwater monitoring system be installed for borrow pits or waste pits approved by IDOT? No

Your request is granted in-part and denied in-part for the following reason(s):

The requested records are not in the possession of the Illinois Department of Transportation.

Your request is overly broad and burdensome.

Other:

\* Please remit a check to the above address in the amount of: \_\_\_\_\_

Details:

Make check payable to the Treasurer, State of Illinois, for reproduction costs. Please send all payments to: FOIA Officer, Illinois Department of Transportation, Room 300, 2300 South Dirksen Parkway, Springfield, IL, 62764.

Your request is denied for the following reason(s):



- a. The requested records are exempt from inspection and copying pursuant to 5ILCS 140/7(1)\_\_\_\_\_.
- b. Other: \_\_\_\_\_

If you have any questions, please contact the Freedom of Information Act Officer, Barbara Brush, at (217) 785-2965.

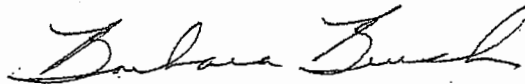
If you feel that any part of this response is a denial of your request, you have a right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor  
Office of the Attorney General  
500 South 2<sup>nd</sup> Street  
Springfield, IL 62706  
Fax: 217-782-1396  
E-mail: [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Very truly yours,



Barbara Brush  
Freedom of Information Officer  
Illinois Department of Transportation

PROOF OF SERVICE

I, John Henriksen, certify that the attached Pre-Filed Questions for the Illinois Environmental Protection Agency submitted by the Illinois Association of Aggregate Producers and Notice of Filing were filed electronically, on August 1, 2013, with:

John Therriault, Clerk  
 Illinois Pollution Control Board  
 James R. Thompson Center  
 100 West Randolph Street, Suite 11-500 Chicago, IL 60601;

and sent by first class mail, postage prepaid, on August 1, 2013, to the following:

Marie Tipsord, Hearing Officer Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph St., Suite 11-500 Chicago, IL 60601	Matthew J. Dunn, Chief Environmental Enforcement Office of the Attorney General 69 West Washington Street, Suite 1800 Chicago, IL 60602
Stephen Sylvester, Asst. Attorney General Environmental Enforcement Office of the Attorney General 69 West Washington Street, Suite 1800 Chicago, IL 60602	Claire A. Manning Brown, Hay & Stephens LLP 700 First Mercantile Bank Building 205 South Fifth St., P.O. Box 2459 Springfield, IL 62705-2459
Kimberly A. Geving, Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276	Mark Wight, Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276
Stephanie Flowers, Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276	Dennis Wilt Waste Management 720 East Butterfield Road Lombard, IL 60148
Michele Gale Waste Management 720 East Butterfield Road Lombard, IL 60148	Mitchell Cohen, General Counsel Illinois Department of Natural Resources One Natural Resources Way Springfield, IL 62702-1271
Steven Gobelman, Geologic/Waste Assessment Specialist Illinois Department of Transportation 2300 S Dirksen Parkway Springfield, IL 62764	Doris McDonald, Assistant Corp Counsel Chicago Department of Law 30 North LaSalle St., Suite 1400 Chicago, IL 60602
Dennis G. Walsh Klein, Thorpe and Jenkins, Ltd. 20 North Wacker Drive Suite 1660 Chicago, IL 60606-2903	Gregory T. Smith Klein, Thorpe and Jenkins, Ltd. 20 North Wacker Drive Suite 1660 Chicago, IL 60606-2903

<p>James Huff - Vice President                  Huff &amp; Huff, Inc.                  915 Harger Road, Suite 330                  Oak Brook, IL 60523</p>	<p>Greg Wilcox, Executive Director                  Land Reclamation &amp; Recycling Association                  2250 Southwind Blvd.                  Bartlett, IL 60103</p>
<p>Greg Lansu, Attorney                  Land Reclamation &amp; Recycling                  Association                  2250 Southwind Blvd.                  Bartlett, IL 60103</p>	<p>Dean Olson, Director                  Will County Land Use Department                  58 E. Clinton Street, Suite 500                  Joliet, IL 60432</p>
<p>Keith Harley                  Chicago Legal Clinic                  211 West Wacker Drive, Suite 750                  Chicago, IL 60606</p>	<p>James M. Mophew                  Sorling, Northrup, Hanna, Cullen &amp; Cochran                  1 North Old State Capitol Plaza, Suite 200                  P.O. Box 5131                  Springfield, IL 62705</p>
<p>Tiffany Chappell                  City of Chicago, Mayor's Office of                  Intergovernmental Affairs                  121 N. LaSalle Street, Room 406                  Chicago, IL 60602</p>	<p>Craig B. Simonsen, Paralegal                  Seyfarth Shaw LLP                  131 South Dearborn Street, Suite 2400                  Chicago, IL 60603-5803</p>
<p>Philip L. Comella                  Seyfarth Shaw LLP                  131 South Dearborn Street, Suite 2400                  Chicago, IL 60603-5803</p>	<p>Jeryl L. Olson                  Seyfarth Shaw LLP                  131 South Dearborn Street, Suite 2400                  Chicago, IL 60603-5803</p>




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John Henriksen