

ILLINOIS POLLUTION CONTROL BOARD
RULES AND REGULATIONS

CHAPTER 7: SOLID WASTE

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ILLINOIS POLLUTION CONTROL BOARD
RULES AND REGULATIONS

CHAPTER 7: SOLID WASTE
PART I: GENERAL PROVISIONS
(as adopted July 19, 1973)

Rule 101: Authority, Policy and Purposes.

Pursuant to the authority contained in Sections 5, 22 and 27 of the Environmental Protection Act, and consistent with the policy and purposes expressed in Section 20 thereof, the Board adopts the following Rules and Regulations.

Rule 102: Repeals.

These rules and regulations replace and supersede Rules and Regulations for Refuse Disposal Sites and Facilities, adopted by the Illinois Department of Public Health on March 22, 1966 and continuing in effect pursuant to Section 49(c) of the Environmental Protection Act "until repealed, amended or superseded by regulations under this Act," except that any proceeding arising from any occurrence happening prior to the applicable provision of these rules and regulations shall be governed by the above described Rules.

Rule 103: Severability.

If any provision of these regulations or the application thereof to any person or in any circumstance is adjudged invalid, such adjudication shall not affect the validity of these Regulations as a whole or of any part thereof not adjudged invalid.

Rule 104: Definitions.

Except as hereinafter stated, and unless a different meaning of a word or term is clear from its context, the definitions of words or terms as are used in these Rules shall be the same as those used in the Environmental Protection Act.

- (a) Bedrock - the solid rock exposed at the surface of the earth or overlain by unconsolidated material.
- (b) Cell - compacted refuse completely enclosed by cover material.
- (c) Compaction - the reduction of volume of material under load.
- (d) Cover material - soil or other material that is used to cover compacted solid waste in a sanitary landfill and that is free of objects that would hinder compaction and free of content that would be conducive to vector harborage, feeding, or breeding.

- (e) Development - construction or installation of a facility within the meaning of those terms used in Section 39 of the Act.
- (f) Facility - any device, mechanism, equipment or area used for storage, transfer, processing, incineration or deposit of solid waste.
- (g) Groundwater - water occurring in the zone of saturation in any aquifer or soil.
- (h) Hazardous waste - solid waste with inherent properties which make such waste difficult or dangerous to manage by normal means including but not limited to chemicals, explosives, pathological wastes, radioactive materials, and wastes likely to cause fire.
- (i) Leachate - liquid containing materials removed from solid waste.
- (j) Lift - an accumulation of refuse which is compacted into a cell and over which compacted cover is placed.
- (k) Modification - any physical change, or change in the method of operation, of a solid waste management facility. For purposes of permits issued pursuant to this Chapter, the Agency may specify conditions under which a solid waste management facility may be operated without causing a modification as herein defined.
- (l) Operator - a person who owns, leases, or manages a solid waste management facility.
- (m) Permeability - the capability of a material to pass a fluid.
- (n) Professional Engineer - an engineer registered to practice engineering in the State of Illinois.
- (o) Refuse - garbage or other discarded materials.
- (p) Salvaging - the return of solid waste materials to beneficial use.
- (q) Scavenging - the removal of materials from a solid waste management facility in a manner not in conformity with the regulations governing salvaging.
- (r) Site - any location, place, or tract of land and facilities, used for solid waste management.
- (s) Solid waste - refuse.
- (t) Solid waste disposal - disposition of solid waste by means acceptable under regulations adopted by the Board.

- (u) Solid waste management - the processes of storage, processing or disposal of solid wastes, not including hauling or transport.
- (v) Surface water - all water the surface of which is exposed to the atmosphere.
- (w) Vector - any living agent, other than human, capable of transmitting, directly or indirectly, an infectious disease.
- (x) Water table - that surface in unconfined water at which the pressure is atmospheric and is defined by the levels at which water stands in wells that penetrate the water just far enough to hold standing water.
- (y) Working face - any part of a sanitary landfill where refuse is being disposed.

PART II: PERMITS

Rule 201: Development Permits.

Subject to such exemption as expressly provided in Section 21(e) of the Environmental Protection Act as to the requirement of obtaining a permit, no person shall cause or allow the development of any new solid waste management site or cause or allow the modification of an existing solid waste management site without a Development Permit issued by the Agency.

Rule 202: Operating Permits.

(a) New Solid Waste Management Sites.

Subject to such exemption as expressly provided in Section 21(e) of the Environmental Protection Act as to the requirement of obtaining a permit, no person shall cause or allow the use or operation of any solid waste management site for which a Development Permit is required under Rule 201 without an Operating Permit issued by the Agency, except for such testing operations as may be authorized by the Development Permit.

(b) Existing Solid Waste Management Sites.

- (1) Subject to such exemption as expressly provided in Section 21(e) of the Environmental Protection Act as to the requirement of obtaining a permit, no person shall cause or allow the use or operation of any existing solid waste management site without an Operating Permit issued by the Agency not later than one year after the effective date of these Regulations.
- (2) All applications for Operating Permits shall be submitted to the Agency at least 90 days prior to the date on which such permit is required; however, the Agency may waive such provision when appropriate.
- (3) The Agency may, if necessary to prevent an unmanageable workload, extend the date by which Operating Permits are required for a period not to exceed 180 days. The

Agency shall notify the persons affected and the Board, in writing, of such extension at least ninety days in advance of the date set forth in Rule 202(b)(1).

(c) Duration of Operating Permits.

All operating permits shall remain valid until the site is completed or closed, or until revoked, as provided herein.

Rule 203: Experimental Permits.

- (a) To best aid the improvement of solid waste management technology, the Agency may issue Experimental Permits for processes or techniques that do not satisfy the standards for issuance set forth in Rule 207, if the applicant can provide proof that the process or technique has a reasonable chance for success and that the environmental hazards are minimal.
- (b) A valid Experimental Permit shall constitute a prima facie defense to any action brought against the permit holder for a violation of the Act or Regulations, but only to the extent that such action is based upon the failure of the process or technique.
- (c) All Experimental Permits shall have a duration not to exceed two years.
- (d) Application for renewal of an experimental permit shall be submitted to the Agency at least 90 days prior to the expiration of the existing permit. To the extent the information to be supplied for renewal is identical with that contained in the prior permit application, the applicant shall so note on the renewal application, and the Agency shall not require the resubmittal of data and information so previously supplied to it.

Rule 204: Former Authorization.

- (a) The issuance of any authorization to operate a solid waste management site prior to July 1, 1970 from any person does not excuse compliance with the requirements for obtaining an Operating Permit.
- (b) The issuance of an Operating Permit by the Agency on July 1, 1970 or thereafter, but prior to the effective date of these regulations, is a valid permit.

205: Applications for Permit.

- (a) All applications for permit required under these Regulations shall contain all data and information specified in those Rules governing the type of facility for which the permit is required.
- (b) The Agency may adopt procedures requiring such additional information as is reasonably necessary to determine whether the solid waste management site will meet the requirements of the Act and Regulations.
- (c) The Agency may prescribe the form in which all information required under these Regulations shall be submitted.
- (d) All permit applications shall be signed by the owner and operator of the solid waste management site or their duly authorized agents, shall be accompanied by evidence of authority to sign the application and shall be certified as to all engineering features by a professional engineer.
- (e) All permit applications shall be mailed or delivered to the appropriate address designated by the Agency, and shall be sent by registered or certified mail, return receipt requested or delivered in person. Applications which are hand-delivered shall be delivered to and receipted for by the Manager of the Agency's Division of Land Pollution Control or his designee.
- (f) An application for permit shall not be deemed filed until the Agency has received, at the designated address, all information, documents, and authorizations in the form and with the content required by these Rules and related Agency procedures. However, if the Agency fails to notify the applicant within 45 days after the receipt of an application for a development permit and 30 days after the receipt of an application for an operating permit, that the application is incomplete, and of the reasons, the application shall be deemed to have been filed on the date received by the Agency. An applicant may deem the Agency's notification that the application is incomplete as a denial of the permit for purposes of review pursuant to Section 40 of the Act.
- (g) If the Agency fails to take final action on the application for development permit within 90 days from the filing thereof, or on the application for operating permit within 45 days from the filing thereof, the applicant may deem the permit granted on the 91st day or the 46th day after the application was filed.
- (h) Any applicant for a permit may waive the requirement that the Agency shall take final action within 90 days or 45 days from the filing of the application.

- (i) The Agency shall send all notices of final action by registered or certified mail, return receipt requested. Final action shall be deemed to have taken place on the date that such notice is mailed.
- (j) Any person adversely affected by the issuance of a permit may petition the Board for a hearing before the Board to contest the issuance by the Agency.

Rule 206: Permit Conditions.

- (a) The Agency may impose such conditions in a permit as may be necessary to accomplish the purposes of the Act, and as are not inconsistent with Regulations promulgated by the Board thereunder.
- (b) The applicant may deem any condition imposed by the Agency as a denial of the permit for purposes of review pursuant to Section 40 of the Act.

Rule 207: Standards for Issuance.

The Agency shall not grant any permit, except an Experimental Permit under Rule 203, unless the applicant submits adequate proof that the solid waste management site:

- (a) will be developed, modified, or operated so as not to cause a violation of the Act or the Rules, or has been granted a variance pursuant to Title IX of the Act; and
- (b) conforms to the design criteria promulgated by the Agency under Rule 213, or conforms to such other criteria which the applicant demonstrates will achieve consistently satisfactory results; and
- (c) in the case of operating permits only, conforms to all conditions contained in the development permit.

Rule 208: Permit No Defense.

The existence of a permit under these rules shall not constitute a defense to a violation of the Act or this Chapter, except for development, modification or operation without a permit.

Rule 209: Permit Revision.

The Agency shall revise any permit issued by it to make the permit compatible with any relevant new regulations adopted by the Board.

Rule 210: Supplemental Permits.

No person shall cause or allow modification of any solid waste management site, or accept any type of waste except under conditions specified in a permit issued by the Agency. Development, operating and experimental permits may be modified by a supplemental permit issued by the Agency to allow such modifications.

Rule 211: Transfer of Permits.

No permit is transferable from one person to another except as approved by the Agency under procedures it adopts pursuant to Rule 213.

Rule 212: Permit Revocation.

Violation of any permit conditions or failure to comply with any rule or regulation of this Chapter shall be grounds for sanctions as provided in the Act, including revocation of permit. Such sanctions shall be sought by filing a complaint with the Board pursuant to Title VIII of the Act.

Rule 213: Design, Operation, and Maintenance Criteria.

- (a) The Agency may adopt procedures which set forth criteria for the design, operation, and maintenance of solid waste management site and other procedures the Agency deems reasonably necessary to perform its duties under this Chapter, and as are consistent with Part III thereof. All such procedures shall be revised from time to time to reflect current engineering judgment and advances in the state of the art. Such procedures and revisions thereto shall not become effective until filed with the Index Division of the Office of the Secretary of State pursuant to "An Act concerning Administrative Rules," approved June 14, 1951, as amended.
- (b) Before adopting new criteria or making substantive changes to any criteria adopted by the Agency, the Agency shall:
 - (1) publish a summary of the proposed changes in the Board Newsletter; and
 - (2) provide a copy of full text of the proposed changes to all persons who hold Agency permits or have active applications pending, and any person who in writing so requests; and
 - (3) defer adoption of the changes for 60 days from the date of publication to allow submission and consideration of written comments on the proposed changes.

PART III: SANITARY LANDFILLS

Rule 301: Prohibition.

No person shall cause or allow the operation of a sanitary landfill unless each requirement of this Part is performed.

Rule 302: Compliance with Permit.

All conditions and provisions of each permit shall be complied with.

Rule 303: Methods of Operation.

Unless otherwise specifically provided by permit, the following methods of operation shall be followed:

- (a) Unloading - all refuse shall be deposited into the toe of the fill or into the bottom of the trench.
- (b) Spreading and Compacting - as rapidly as refuse is deposited at the toe of the fill, all refuse shall be spread and compacted in layers within the cell, such layers not to exceed a depth of two feet.
- (c) Working Face - the slope of the working face shall be maintained at a ratio of no greater than two horizontal to one vertical.

Rule 304: Equipment, Personnel and Supervision.

Sufficient equipment, personnel and supervision shall be available at the site to ensure that operations comply with the permit and the Act and Regulations.

Rule 305: Cover.

Unless otherwise specifically provided by permit, the following cover requirements shall be followed:

- (a) Daily Cover - a compacted layer of at least 6 inches of suitable material shall be placed on all exposed refuse at the end of each day of operation.
- (b) Intermediate Cover - at the end of each day of operation, in all but the final lift of a sanitary landfill, a compacted layer of at least 12 inches of suitable material shall be placed on all surfaces of the landfill where no additional refuse will be deposited within 60 days.
- (c) Final Cover - a compacted layer of not less than two feet of suitable material shall be placed over the entire surface of each portion of the final lift not later than 60 days following the placement of refuse in the final lift, unless a different schedule has been authorized in the Operating Permit.

Rule 306: Litter.

All litter shall be collected from the sanitary landfill site by the end of each working day and either placed in the fill and compacted and covered that day, or stored in a covered container.

Rule 307: Salvaging.

- (a) All salvaging operations at a sanitary landfill site shall be conducted in a sanitary manner.
- (b) All salvaging operations at a sanitary landfill site shall be confined to an area remote from the operating face of the landfill.
- (c) Salvaging operations at a sanitary landfill site shall not interfere with, or otherwise delay the operation of the landfill.
- (d) All materials for salvaging shall be removed from the landfill site daily, or shall be separated by type and properly stored so as not to create a nuisance, vector harborage, or unsightly appearance.

Rule 308: Scavenging.

No person shall cause or allow any scavenging operations at a sanitary landfill site.

Rule 309: Animal Feeding.

No person shall cause or allow feeding of farm or domestic animals upon the site of a sanitary landfill, or with refuse delivered to a sanitary landfill site.

Rule 310: Special Wastes.

- (a) Hot Waste - except in an emergency, no person shall cause or allow the deposit at a sanitary landfill site of burning material. When such material is accepted, it shall be deposited at a specific location at the site designated by permit for such purpose, and the fire shall be immediately extinguished.
- (b) Hazardous and liquid wastes - hazardous wastes or liquid wastes and sludges may be accepted at a sanitary landfill only if authorized by permit.

Rule 311: Open Burning.

No person shall cause or allow open burning at a sanitary landfill site except in accordance with the provisions of Chapter 2, Part V, Open Burning, of the Rules and Regulations of the Pollution Control Board.

Rule 312: Air Pollution.

No person shall cause or allow operation of a sanitary landfill so as to cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under the Act.

Rule 313: Water Pollution.

No person shall cause or allow operation of a sanitary landfill so as to cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act.

Rule 314: Standard Requirements.

Except as otherwise authorized in writing by the Agency, no person shall cause or allow the development or operation of a sanitary landfill which does not provide:

- (a) Adequate shelter, sanitary facilities and emergency communications for employees;
- (b) Roads adequate to allow orderly operations within the site;
- (c) Fencing, gates, or other measures to control access to site;
- (d) Adequate measures for fire protection as approved by the Agency;
- (e) Adequate measures to monitor and control leachate;
- (f) Adequate measures to control dust and vectors;
- (g) An operational safety program approved by the Agency;
- (h) With respect to sanitary landfill sites for which permits are applied for following the effective date of these regulations, provision for concealing sanitary landfill operations from public view.

Rule 315: Protection of Waters of the State.

No person shall cause or allow the development or operation of a sanitary landfill unless the applicant proves to the satisfaction of the Agency that no damage or hazard will result to

waters of the State because of the development and operation of the sanitary landfill.

Rule 316: Application.

- (a) An Application for a Development Permit for a sanitary landfill shall contain evidence adequate to prove to the Agency that the development of the sanitary landfill will not cause or tend to cause water or air pollution; will not violate applicable air and water quality standards; and will not violate any rule or regulation adopted by the Board. The Application shall include, unless waived in writing by the Agency as inapplicable to the site in question:
- (1) Legal description of the proposed sanitary landfill site;
 - (2) Topographic map or maps of the sanitary landfill site drawn to the scale of 200 feet to the inch or larger, containing 5-foot contour intervals where the relief exceeds 20 feet, and 2-foot contour intervals where the relief is 20 feet or less, and referred to a United States Geological Survey datum;
 - (3) Maps of the sanitary landfill site, and of the area within one-quarter mile of the boundaries of the site, drawn to scale, showing the location of:
 - (i) waterways and surface drains; and
 - (ii) borings, wells, springs, and their surface elevations, and depths and elevations of water levels; and
 - (iii) field tile drains; and
 - (iv) underground and surface mines, elevations of mine pools, and mine pool discharges.
 - (4) Land use and population density of the proposed sanitary landfill site and of the area surrounding the site within one mile of the site boundaries;
 - (5) Sequence of earth materials at the proposed sanitary landfill site to a depth sufficient to assure the reliability of the site design;
 - (6) Data obtained from soil samples taken from the proposed sanitary landfill site which describe the soil classification, grain size distribution, permeability, compactability, and ion-exchange properties of the subsurface materials for those strata which are essential to the design of the landfill;

- (7) Description of groundwater condition, including groundwater flow below and adjacent to the proposed sanitary landfill site, with an appraisal of the effect of the landfill on groundwater and surface waters;
- (8) Comprehensive analysis of water samples from on-site and nearby wells and surface waters;
- (9) Schedule of construction;
- (10) Topographic map indicating the proposed final contours and landscaping of the completed site with a statement of the proposed final use of the site, if known;
- (11) Description of the methods of operations; days and hours of operations; and number, and duties of employees;
- (12) Listing of sources and types of wastes to be received; and an estimate of daily quantity of wastes to be received;
- (13) A schedule of filling, methods of compaction of solid waste; and number, type, and size of compacting equipment;
- (14) Types and sources of daily, intermediate, and final cover to be used;
- (15) Map of the sanitary landfill site, drawn to scale, indicating the location of:
 - (i) Water monitoring wells and gas monitoring points;
 - (ii) Points of entrance to and exit from the sanitary landfill site and to and from the operating area of the sanitary landfill;
 - (iii) Interior roads and ramps;
 - (iv) Devices for controlling litter;
 - (v) Devices for controlling unauthorized access to the sanitary landfill site;
 - (vi) Drainage facilities, structures, walls, cribbing, surface protection devices, or any other devices as are necessary to comply with applicable water quality standards;

- (vii) Fire protection facilities;
 - (viii) Utilities;
 - (ix) Salvage operations;
 - (x) Fill area;
 - (xi) Borrow areas;
 - (xii) Gas and oil wells;
 - (xiii) High tension power lines;
 - (xiv) Fuel transmission pipelines;
 - (xv) Field tile drains;
 - (xvi) Provisions for concealing the site from public view;
- (16) Evidence of notification required by the Public Act 77-1948, effective October 1, 1972; and
- (17) If exploration holes are drilled to obtain data, information showing the manner of plugging or sealing such holes.

(b) Operating Permits.

- (1) An Application for an Operating Permit for a sanitary landfill shall contain evidence adequate to prove to the Agency that the operation of the sanitary landfill will not cause any violation of the Act or of Regulations promulgated by the Board. The Application shall include certification that all data and information required by Rule 316(a) for a Development Permit has been provided, and that all conditions thereof have been complied with, except that no information already submitted to the Agency shall be required to be resubmitted and may be incorporated by reference into the Application for an Operating Permit.
- (2) The Agency shall not issue an Operating Permit until it has made an inspection of the developed site and has determined that the site has been so developed in accordance with the provisions of the application for development permit and is in compliance with the Act and all applicable regulations.

Rule 317: Operating Records.

Every holder of an operating permit shall submit to the Agency, Division of Land Pollution Control on or before the 15th day of January, April, July and October the water monitoring data required by permit.

Rule 318: Completion or Closure Requirements.

- (a) The owner or operator of a sanitary landfill site shall monitor gas, water and settling at the completed site for a period of three years after the site is completed or closed.
- (b) The owner or operator shall take whatever remedial action is necessary to abate any gas, water or settling problems which appear during the three year period.
- (c) The owner or operator shall, upon completion or closure, file a detailed description of the site, including a plat, with the appropriate county land recording authority for the county in which the site is located.

ILLINOIS POLLUTION CONTROL BOARD
July 31, 1973

IN THE MATTER OF:)
)
CHAPTER 7: SOLID WASTE) R 72-5
RULES AND REGULATIONS)

OPINION OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

This Opinion is in support of Chapter 7: Solid Waste, Parts I, II and III of the Illinois Pollution Control Board Rules and Regulations adopted by the Board on July 19, 1973.*

The original regulatory proposal was submitted to the Pollution Control Board (hereinafter "Board") on April 4, 1972, and was published in Board Newsletter #55. Subsequent to publication, a total of seven public hearings was held, the first on September 27, 1972, and the last on December 8, 1972, in the cities of Wheaton, Champaign, Peoria, Alton, Springfield and Chicago. The Hearing Officer for these hearings was Mr. John L. Parker, who was at that time a member of the Pollution Control Board, and Mr. Parker was accompanied at each hearing by Mr. Jacob D. Dumelle, who has been a Pollution Control Board Member since the Board's creation in July of 1970.

The Board inherited Rules and Regulations for Refuse Disposal Sites and Facilities, which had been adopted by the Illinois Department of Public Health, Division of Sanitary Engineering, in 1966. Pursuant to Section 49(c) of the Environmental Protection Act, (hereinafter "Act") regulations were to remain in full force and effect "until repealed, amended, or superseded by regulations" adopted by the Board under the Act. Section 22 of the Act, which states as follows:

SECTION 22.

In accord with Title VII of this Act, the Board may adopt regulations to promote the purposes of this Title. Without limiting the generality of this authority, such regulations may among other things prescribe the following:

- (a) Standards for the location, design, construction, sanitation, operation, maintenance, and discontinuance of the operation of refuse collection and disposal sites and facilities;

*The Board acknowledges the valuable assistance rendered by Marvin Medintz, Board Administrative Assistant, in the conduct of the hearings and the preparation of the opinion.

- (b) Standards for the certification of personnel to operate refuse disposal facilities or sites;
- (c) Standards for the dumping of any refuse;
- (d) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their source, the collection of samples and the collection, reporting and retention of data resulting from such monitoring,

provides the specific statutory authority for the Board to adopt the regulations which are the subject of this Opinion.

Before discussing the new rules themselves, it is necessary to consider certain procedural allegations which were raised as to the appropriateness of the Board holding hearings on the proposed regulation. The controversy arose over certain provisions in Section 6 of the Act, which states:

"as soon as practical, the Director shall establish within the Institute a Solid Waste Management Task Force to make surveys and recommendations regarding the development of regional systems of solid waste and refuse collection, handling and disposal; for coordinating municipal and industrial solid waste and refuse collection, handling and disposal; for coordinating municipal and industrial solid waste disposal programs; to expedite development of systems for the recycling and reuse of refuse and solid waste materials; and to make periodic reports and recommendations for submission to the Board by the Institute at such intervals as to assure compliance with the purposes of this Act and paragraph. The Board shall make rules and regulations on these subjects based upon such recommendations."

It was alleged that the only way in which regulations could be proposed to the Board in any area of solid waste would be by the Solid Waste Management Task Force (Motions of South Suburban Land Development Co., Exhibit 87). Even though it is clear that the purview of the task force was limited to very specific segments of the entire problem of solid waste and refuse disposal, and that Section 22 of the Act clearly allows the Board to adopt regulations on matters far broader and more comprehensive than those few segments mentioned in Section 6, the Solid Waste Management Task Force was in fact consulted several times in the drafting of the proposal which was submitted to the Board (Exhibits 86, 86(a), 86(b), 86(c), 86(d)). The Act does not require that the general regulations which the Board adopted on July 19 be submitted to the task force. Apparently, it appears that the task force was consulted because the expertise of its members in the area of solid waste and refuse disposal would be helpful. Accordingly, any contentions that the regulations were improperly presented to the Board is rejected.

Another contention raised was that the provisions of the Act requiring that a Board Member be present at all regulation hearings (Section 28) was not properly implemented. Apparently, the basis for this contention is that Mr. John Parker, who served as Hearing Officer, was not qualified to satisfy the statute. (Motions of South Suburban Land Development Co.). This is alleged on either or both of two grounds. The relevant provision of Section 28 provides:

"any public hearing relating to the adoption, amendment, or repeal of Board regulations under this subsection shall be held before a qualified Hearing Officer, who shall be attended by at least one member of the Board, designated by the Chairman."

The contention was made that when a Board Member serves as a Hearing Officer, a second Board Member must accompany him. Whether or not this is the case is not before the Board at this time, because Mr. Jacob Dumelle, as previously noted, was present at all of the hearings. However, the clear meaning of the statute is that one member of the Board shall attend every regulatory hearing. Mr. Parker, who was a member of the Board at the time each and every hearing was held, attended these hearings. The contention that the hearings were not properly attended by a Board Member as required by Section 28 is totally without merit.

II

There are certain key differences between the now repealed Department of Public Health regulations and the newly adopted Board regulations. Perhaps the most significant new requirement is that the State must now be provided a comprehensive development plan for the entire proposed facility before the operation of that facility may begin. Under the repealed Department of Public Health rules, in certain instances, the State had often been unable to withhold approval of an operation, regardless of the environmental consequences, because all that was required was a submission of information by the owner or operator. The State simply had no authority to prohibit the operation.

The requirement of properly planning a sanitary landfill, an operation which may cover hundreds of acres and last for decades, is a significant and necessary environmental requirement. Complete groundwater and subsurface characteristics of the landfill site may be required if the Agency determines that such investigation is necessary to prevent pollution of any waters of the State. The Agency may also require that the groundwater be monitored at such reasonable frequencies as it deems necessary. Another significant requirement, relating only to new sanitary landfills, is the requirement that such new operations have their operations screened from public view (Rules 314, 316(a)(15)(xvi)). This suggestion was made by a citizen witness at the Wheaton hearing,

(R. 123-125), and the wisdom of this requirement was confirmed by a representative of sanitary landfill interests at that same hearing (R. 377-378).

Because most public opinion against the development and operation of landfills is because of aesthetic reasons (Wheaton, R. 377-378), this provision should make it easier for those who wish to develop sanitary landfills to overcome the objections of those who might otherwise reject a sanitary landfill in a particular area. A third significant innovation under the new regulations (Rule 318) is the requirement that the owner or operator of a sanitary landfill site monitor the site and abate any environmental problems which might arise during a period of three years from the date the site is completed or closed. This provision ensures environmental protection against subsequently occurring pollution problems.

The definitions (Rule 104) represent an amalgamation of definitions suggested by various witnesses at the hearing. Uniformity of definition on an industry-wide basis was suggested at the Wheaton hearing by an industry representative (R. 136). Exhibit 2, helpfully submitted by this witness provided the definition of terms as proposed in the original regulation, and as defined by the National Solid Waste Management Association and the U. S. Environmental Protection Agency. The Board has attempted to make the definitions in the regulation as consistent as reasonable with those suggested by representatives of industry and the Agency.

III

The new regulation requires operating permits for all solid waste management sites which have not received such a permit from the Agency. Existing solid waste management sites which never received an Agency permit have been given one year from the effective date of the new regulations to obtain such permit.

A key change which was made by the Board as a result of testimony given at the hearings is that operating permits are valid until the site is completed or closed, or until such permit is revoked by the Board. The original proposal was to allow operating permits to be for not more than five years duration. Industry witnesses gave testimony and presented data which convinced the Board that such a five year limitation would not be reasonable when applied to the sanitary landfill situation. The Board is convinced that if a sanitary landfill is not operating in accordance with the Act, the regulations, or its permit, sufficient enforcement mechanisms exist to require that landfill be operated properly or not be operated at all. Related to the length of permit is a further change made by the Board in response to industry testimony. The original proposal provided that a permit issued by operation of law pursuant to Section 38 of the Act would have a duration of only one year. The Board feels that Section 38 of the Act states the

applicant shall receive the permit for which he applied, and that there is no statutory basis for limiting the time duration of the permit due to some unknown administrative or bureaucratic difficulties within the Agency. What this provision means is that the Agency will be required to act on all permit applications with the efficiency required by the Act.

A provision not found in other regulations of the Board is Rule 203, Experimental Permits. This rule is designed to allow the issuance of experimental permits for a period of time not to exceed two years. The purpose of this rule is to allow the Agency to participate and regulate the improvement of solid waste management technology, if the process or technique involved in the experimental permit has a reasonable chance for success with a minimum of environmental hazards. Examples where the experimental permit might be helpful are situations similar to a project in Madison, Wisconsin in which refuse is being shredded and spread with no apparent need for cover material. (Alton, R . 289-291, 294). The refuse is ground up, the metal is separated by magnets, and the refuse is then carried to the disposal site where it is dumped. Apparently, the refuse lies tightly enough together so that there have been no vector and few litter problems. It is still unclear as to whether there may be leachate problems resulting from the uncovered shredded refuse. Another program which might come under the scope of the experimental permit provision is a process being utilized in the Minneapolis, Minnesota area. The refuse is baled under extraordinarily high pressure and then spread at the site in bales, again with no necessity for cover. Apparently, there are no vector or litter problems from this technique, although again it is still too early to finally evaluate what leachate problems might result from such a technique.

The remainder of the permit requirements is largely self-explanatory, although a few provisions of special significance will be explained. Rule 205(d) requires that the permit applications must be signed by the owner and operator of the site or by their duly authorized agent, and that engineering work done related to site development will be certified by a professional engineer. This provision guarantees that the Agency will be assured that they are dealing with people who have authority for development of a site and that engineering work related to such development will be done in a professionally acceptable way. Rules 205(f) and (g) provide that the Agency has 45 days from the filing of application for development permit and 30 days from the date of receipt of an application for an operating permit to specify wherein permit application is incomplete. If the Agency does so notify the applicant within those time periods the application is deemed filed as of the date of receipt of the Agency. The Agency also has 90 days to take final action on the application for development permit and only 45 days from the date of receipt of the application for an operating permit before the applicant may deem the permit granted as applied for. Rule 205(j) gives the right to appeal the issuance of a permit by the Agency

due any person adversely affected by such issuance. This provision will increase citizen involvement in the State's environmental program. A new provision is Rule 211 (Transfer of Permits), which allows a permittee to transfer the permit if such transfer is approved by the Agency under procedures it shall adopt. Rule 212 (Permit Revocation) makes it clear that a permit cannot be revoked by unilateral Agency action. Revocation is a remedy to be sought by the filing of an enforcement action against the permittee allegedly in violation of the regulations or the Act.

IV

The most significant objections raised against the original proposal was the extreme inflexibility of the requirements relating to methods of operation, the use of cover material, and the information required in an application for permit. After examining the record, the Board agrees that many of the requirements were too rigid, and accordingly have modified various provisions to allow increased flexibility in the development and operation of a sanitary landfill.

Rule 303 (Methods of Operation) has been revised to provide maximum flexibility in loading, spreading, and compacting of refuse within the landfill, and the maintenance of the slope of the working face within the landfill. The methods will be regulated by permit, and if the methods in Rule 303 are not satisfactory to the applicant, he may specify any environmentally acceptable alternative which may be better suited for his particular operation.

Similar flexibility by the permit system has been allowed by Rule 305, which relates to cover material. The Board recognizes that different types of refuse require different types and frequencies of cover material. For example, certain types of non-putrescible waste may not require cover as frequently as ordinary domestic garbage. An example of where the new flexibility might be applicable relates to a proposal made by Chicago Fly-Ash Company regarding certain combustion by-products which was made to the Board at the Champaign hearing (R. 219 et seq; Exhibits 16, 18, 19, 29, 30). The record shows that the types of combustion by-products involved, primarily fly-ash, bottom ash and slag, do not decay, are not combustible, do not attract vectors, and do not emit gas or odors. Accordingly, daily and intermediate cover may not be necessary for the proper disposal of these products because there will be no litter, scavenging, animal waste, or vector control problems. Certain extreme care is necessary regarding possible leachate problems from such waste disposal.

Rule 316 (Application) requires an extremely detailed and environmentally significant collection of information which will allow the Agency to make a well reasoned and informed judgment regarding the environmental effects of the sanitary landfill. Again, the Board has provided flexibility in the requirement of certain

information. The record well demonstrates that every landfill is a unique entity, and what might be necessary to make an environmental judgment regarding one site may not be necessary to make a similar judgment regarding another. Rule 316 provides that the Agency may waive certain information requirements if the Agency deems that information inapplicable to the site in question

The great flexibility afforded in the development and operation of sanitary landfills by these regulations insures that every sanitary landfill can be tailored to best accomplish the purposes of solid waste disposal and environmental protection. Every sanitary landfill will be a specially designed operation best suited for the site in which it is located.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board certify that the above Opinion was adopted by the Board on the 31st day of July, 1973, by a vote of 4 to 0.

Christian L. Moffett