

ILLINOIS POLLUTION CONTROL BOARD

August 4, 2011

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)

ORDER OF THE BOARD (by G.T. Girard):

On July 29, 2011, the Illinois Environmental Protection Agency (IEPA) filed a proposal pursuant to Section 22.51 of the Environmental Protection Act (Act) (415 ILCS 5/22.51 (2010)). The proposal was accompanied by a motion to waive filing requirements. Generally, 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 soil to be used as fill. Under Section 22.51 of the Act, the IEPA is required to present a proposal to the Board by July 30, 2011 and the Board must adopt the rule no later than one year after receipt of the IEPA's proposal.

The proposal specifies: 1) the use of CCDD and uncontaminated soil as fill material at CCDD fill operations (*see* 415 ILCS 5/22.51(f)(1) (2010)); 2) the use of uncontaminated soil as fill material at uncontaminated soil fill operations (*see* 415 ILCS 5/22.51a(d)(1) (2010)); and (3) the maximum concentrations of contaminants that may be present in the uncontaminated soil component of construction or demolition debris (*see* 415 ILCS 5/3.1 60(c) (2010)). SR at 1. The proposed rules also include standards and procedures necessary to protect groundwater. *Id.*

The IEPA's proposal also reflects changes necessitated by P. A 97-0137 (eff. July 14, 2011). The first change removes the benzo(a)pyrene restriction at Section 3.160(c)(1) of the Act (415 ILCS 5/3/160(c)(1) (2010)). SR at 2. This change allows the Board to consider Tiered Approach to Corrective Action (TACO) background levels for all carcinogens and not just for the one carcinogen, benzo(a)pyrene. The second amendment was made to Sections 22.51(f)(2)(B) and 22.51a(d)(2)(B) of the Act (415 ILCS 5/22.51(f)(2)(B) and 22.51a(d)(2)(B) (2010)) and allows Professional Geologists, as well as Professional Engineers to provide certifications under the interim soil certification requirements. *Id.*

The Board accepts the proposal for hearing. The Board directs the hearing officer to proceed expeditiously with hearings.

MOTION TO WAIVE REQUIREMENTS

The IEPA asks that the Board waive certain filing requirements for the incorporations by reference contained in the IEPA's proposed amendments. The IEPA requests a complete waiver from the filing requirements for:

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).

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (800) 553-6847:

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, IIIB, and IV).

The IEPA states that the Board’s staff has confirmed that these documents are in the Board’s possession. IEPA argues that preparing and submitting additional copies would serve no purpose and would be unnecessarily costly.

The IEPA also asks to be allowed to file only a single copy of:

United States Environmental Protection Agency, Office of Solid Waste and Emergency Response (2003). “Human Health Toxicity Values in Superfund Risk Assessments,” OSWER Directive 9285.7-53. (Available online at <http://www.epa.iov/oswer/riskassessrment/pdf/flimemo.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.

“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/ttnlatw/cancer_guidelines_final_3-25-05 .pdf](http://www.epa.gov/ttnlatw/cancer_guidelines_final_3-25-05.pdf)).

“Statistical Analysis of Groundwater Data at RCRA Facilities-Unified Guidance (2009)”. U. S. Environmental Protection Agency, Washington, DC, EPA Publication No. EPA 530/R-09-007, 2009. (Available online at <http://www.epa.gov/waste/hazard/correctiveactionresources/guidance/sitechar/gwstat s/unified-uid.pdf>).

“RCRA Ground-Water Monitoring: Draft Technical Guidance (1992)”. U. S. Environmental Protection Agency, Washington, DC, EPA Publication No. EPA 530-R-93-001, 1992. (Available online at <http://www.epa.gov/osw/hazard/co1TectiveactionJresources/uidance/sitechar/gwmonj tr/rcra w.pdf>).

The IEPA asserts that these documents are available at no cost online at the addresses provided. The IEPA argues that the documents are several hundred pages and preparation and submission of more than one copy would be unnecessarily costly and burdensome.

The Board grants the motion to waive the filing requirements and will allow the IEPA to dispense with filing some documents and filing a single copy of the others.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 4, 2011, by a vote of 4-0 (Member Zalewski abstained).

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board