

ILLINOIS POLLUTION CONTROL BOARD
March 18, 2004

IN THE MATTER OF:)
)
RCRA SUBTITLE D UPDATE, USEPA) R04-5
REGULATIONS (January 1, 2003, through) (Identical-in-Substance
June 30, 2003)) Rulemaking - Land

)
RCRA SUBTITLE D UPDATE, USEPA) R04-15
REGULATIONS (July 1, 2003, through) (Identical-in-Substance
December 31, 2003)) Rulemaking - Land

Proposed Rule. Proposal for Public Comment.

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

This identical-in-substance rulemaking would update the Illinois municipal solid waste landfill (MSWLF) regulations to incorporate revisions to the federal regulations. The federal amendments that prompted this action were made by the United States Environmental Protection Agency (USEPA) during the two update periods of January 1, 2003 through June 30, 2003, and July 1, 2003 through December 31, 2003. This proceeding proposes amendments to 35 Ill. Adm. Code 810 and 811. The principal amendments relate to disposal of residential lead-based paint waste and location of new MSWLF units near airports. This proposal for public comment would also make a limited number of non-substantive corrections and stylistic revisions to segments of the text covered by the federal amendments.

As explained below, for reasons of administrative economy, the Board is consolidating dockets R04-5 and R04-15. The caption in today's order reflects this consolidation.

Sections 7.2 and 22.40(a) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 22.40(a) (2002)) require the Board to adopt amendments to the Illinois regulations that are "identical-in-substance" to MSWLF adopted by the United States Environmental Protection Agency (USEPA). These USEPA rules implement Subtitle D of the Resource Conservation and Recovery Act of 1976, 42 U.S.C §§ 6941-6949, (RCRA Subtitle D).

Sections 7.2 and 22.40(a) of the Act provides for quick adoption of regulations that are "identical-in-substance" to federal regulations that USEPA adopts to implement Sections 4004 and 4010 of RCRA, 42 U.S.C. §§ 6944 and 6949a (1996). Section 22.40(a) of the Act also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 & 5-40 (1996)) do not apply to the Board's adoption of identical-in-substance regulations. The federal RCRA Subtitle C regulations are found at 40 C.F.R. 258.

The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of

publication. The Board presently expects to adopt final rules based on this proposal for public comment by the regularly scheduled meeting of June 3, 2004.

CONSOLIDATION OF DOCKETS R04-5 AND R04-15

The Board hereby consolidates its consideration of the R04-5 and R04-15 RCRA Subtitle D update dockets in the interests of administrative economy. The sets of amendments involved are relatively small in volume. The consolidation of those two dockets will expedite the amendment of all the regulations involved at a reduced cost to the State. The caption reflects this addition.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

USEPA amended the federal RCRA Subtitle D MSWLF regulations once during the nominal January 1, 2003 through June 30, 2003 period of docket R04-5. That single action is summarized as follows:

68 Fed. Reg. 36487 (June 18, 2003)

USEPA amended key definitions to allow disposal of residential lead-based paint waste that is not hazardous waste in a construction and demolition landfill that does not accept other household waste.

USEPA amended the federal RCRA Subtitle D MSWLF regulations once during the nominal July 1, 2003 through December 31, 2003 period of docket R04-15. That single action is summarized as follows:

68 Fed. Reg. 59333 (October 15, 2003)

USEPA amended the rules to add a note referencing the adoption of the Wendell H. Ford Aviation Investment Act prohibiting location of a new landfill within six miles of a certain public airports.

The Board is proposing to amend the Illinois regulations to incorporate the two sets of federal amendments relating to disposal of residential lead-based paint waste and location of new MSWLF units in the vicinity of public airports.

PUBLIC COMMENTS

The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made evident through the public comments. The Board will file any adopted rules with the Secretary of State immediately after adoption, so they may become effective as soon as possible. The complete text of the proposed amendments appears in the order segment of this opinion and order.

TIMETABLE FOR COMPLETION OF THIS RULEMAKING

Under Section 7.2 of the Act (415 ILCS 5/7.2(b) (2002)), the Board must complete this rulemaking within one year of the date of the earliest set of federal amendments considered in this docket. USEPA adopted the earliest federal amendments that required Board attention on June 18, 2003, so that the deadline for Board adoption of these amendments is June 18, 2004. The Board scheduled adoption of this proposal for public comment for the Board meeting of March 18, 2004, to allow for timely adoption of the rule around June 3, 2004. This will allow filing of these amendments after June 14, 2004, and before the June 18, 2004 deadline.

Considering the proposal of these amendments on this date, the Board projects the following will occur in the progress towards completion of these amendments:

Due date:	June 18, 2004
Date of Board vote to propose amendments:	March 18, 2004
Submission for <i>Illinois Register</i> publication:	March 29, 2004
Probable <i>Illinois Register</i> publication date:	April 9, 2004
End of 45-day public comment period:	May 24, 2004
Date of Board vote to adopt amendments:	June 3, 2004
Probable filing and effective date:	June 14, 2004
Probable <i>Illinois Register</i> publication date:	June 25, 2004

DISCUSSION

The following discussion begins with a description of the types of deviations the Board makes from the literal text of federal regulations in adopting identical-in-substance rules. It is followed by a discussion of the amendments and actions undertaken in direct response to the federal actions involved in this proceeding. This first series of discussions is organized by federal subject matter, generally appearing in chronological order of the relevant *Federal Register* notices involved. Finally, this discussion closes with a description of the amendments and actions that are not directly derived from the federal actions.

Discussion of the Particular Federal Actions Involved in This Docket

Disposal of Residential Lead-Based Waste in Construction and Demolition Landfills-- Section 810.103

The USEPA action of June 18, 2003 (68 Fed. Reg. 36487) related to disposal of residential lead-based paint waste in construction and demolition landfills. USEPA added definitions to its regulations of “residential lead-based paint waste” and “construction and demolition landfill.” USEPA further amended the definition of MSWLF to exclude a construction and demolition (C & D) landfill.

Residential lead-based paint waste is defined as waste that contains lead-based paint that was generated in the course of abatement, rehabilitation, renovation, and remodeling activities in

homes or other residential units. The term includes lead-based paint debris, chips, dust, and sludges.

A C & D landfill is defined as one that meets the 40 C.F.R. 257 general requirements for land disposal facilities or for disposal of conditionally exempt small quantity generator waste. A C & D landfill may not also receive hazardous waste or industrial solid waste. The federal definition states that a C & D landfill typically receives roadwork material, excavated material, demolition waste, construction and renovation waste, and site clearing waste.

The Board incorporated the June 18, 2003 federal amendments without substantive deviation from the corresponding federal text. This included the addition of the two new definitions of “residential lead-based paint” and “C & D landfill” and the amendment of the existing definition of “MSWLF.” Persons wishing the details of the federal amendments that underlie the current actions are directed to the June 18, 2003 issue of the *Federal Register*. The deviations from the text of the federal amendments are restricted to those structural and stylistic changes needed to make the text comport with the *Illinois Register* format and the Board’s preferred style. The table that begins on page 6 of this opinion itemizes the various revisions made in the federal text in adapting it into the State regulations.

The Board requests public comment on the incorporation of the June 18, 2003 federal amendments into the Illinois landfill regulations. Those amendments relate to landfill disposal of residential lead-based paint waste.

Restrictions on the Location of a new MSWLF Unit in the Vicinity of a Public Airport-- Section 811.320

The USEPA action of October 15, 2003 (68 Fed. Reg. 59333) related to location of a new MSWLF unit in the vicinity of a public airport. USEPA added a note to its 40 C.F.R. 258.10 provision relating to location of a MSWLF in proximity to an airport. USEPA deliberately chose not to amend the language of its location restriction provisions. USEPA instead chose to append a note to its location restrictions that referenced the federal statutory change that instituted a new restriction.

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Pub. L. 106–181, effective April 5, 2000, amended 49 U.S.C. 44718(d). This provision relates to location of a federally funded public airport in proximity to a municipal solid waste landfill (MSWLF). The amended provision now prohibits establishing a new MSWLF within six miles of a federally-funded public airport served by general aviation aircraft and regularly scheduled flights of aircraft designed for 60 or fewer passengers, unless the FAA determines at the request of the state that the location would have no adverse impact on aviation safety.

On July 11, 2002 (67 Fed. Reg. 45915), USEPA adopted a direct final rule that would have incorporated the federal statutory location restrictions into the rules as a new subsection (e) to 40 C.F.R. 258.10. However, USEPA withdrew this rule on October 8, 2003 (67 Fed. Reg. 62647), in response to several adverse public comments. In response to the comments, USEPA

chose to add the note to 40 C.F.R. 258.10 referencing the federal legislation that imposes the additional location restrictions.

The Board incorporated the October 15, 2003 federal amendments without substantive deviation from the corresponding federal text. The deviations from the text of the federal amendments are restricted to those structural and stylistic changes needed to make the text comport with the *Illinois Register* format and the Board's preferred style. The table that begins on page 6 of this opinion itemizes the various revisions made in the federal text in adapting it into the State regulations. The only significant change in the text is correction of an apparent federal error in the citation. Examination of the text of 49 U.S.C. 44718 (copy appended to the end of this memo) discloses an apparent error in the text of the October 15, 2003 USEPA amendments. There is no pertinent USEPA refers to "49 U.S.C. 44718 note" in its added language in 40 C.F.R. 258.10. Rather, it is subsection (d) of 49 U.S.C. 44718 in the amended statute that sets forth the text of the location restriction. The Board will correct the reference "49 USC 44718 note" to "49 USC 44718(d)". Persons interested in the details of the federal amendments should consult the October 15, 2003 *Federal Register* notice.

The Board requests public comment on the incorporation of the October 15, 2003 federal amendments excluding from hazardous waste regulation those secondary materials that are used to make zinc fertilizers and the fertilizers made from those secondary materials.

General Revisions and Deviations from the Federal Text

In incorporating the federal rules into the Illinois system, some deviation from the federal text is unavoidable. This deviation arises primarily through differences between the federal and state regulatory structure and systems. Some deviation also arises through errors in and problems with the federal text itself. The Board conforms the federal text to the Illinois rules and regulatory scheme and corrects errors that we see in the text as we engage in these routine update rulemakings.

In addition to the amendments derived from federal amendments, the Board often finds it necessary to alter the text of various passages of the existing rules as provisions are opened for update in response to USEPA actions. This involves correcting deficiencies, clarifying provisions, and making other changes that are necessary to establish a clear set of rules that closely parallel the corresponding federal requirements within the codification scheme of the *Illinois Administrative Code*.

The Board updates the citations to the *Code of Federal Regulations* to the most recent version available. As of the date of this opinion, the most recent version of the *Code of Federal Regulations* available to the Board is the July 1, 2002 version. Thus, we have updated all citations to the 2002 version, adding references to later amendments using their appropriate *Federal Register* citation, where necessary.

The Board substituted "or" for "/" in most instances where this appeared in the federal base text, using "and" where more appropriate. The Board further used this opportunity to make a number of corrections to punctuation, grammar, spelling, and cross-reference format

throughout the opened text. We changed “who” to “that” and “he” or “she” to “it,” where the person to which the regulation referred was not necessarily a natural person, or to “he or she,” where a natural person was evident; changed “which” to “that” for restrictive relative clauses; substituted “must” for “shall”; capitalized the section headings and corrected their format where necessary; and corrected punctuation within sentences.

In addition, the federal rules have been edited to establish a uniform usage throughout the Board’s regulations. For example, with respect to “shall,” “will,” and “may,” “must” is used when an action is required by the rule, without regard to whether the action is required of the subject of the sentence or not. “Shall” is no longer used, since it is not used in everyday language. Thus, where a federal rule uses “shall,” the Board substitutes “must.” This is a break from our former practice where “shall” was used when the subject of a sentence has a duty to do something. “Will” is used when the Board obliges itself to do something. “May” is used when choice of a provision is optional. “Or” is used rather than “and/or,” and denotes “one or both.” “Either . . . or” denotes “one but not both.” “And” denotes “both.”

The Joint Committee on Administrative Rules (JCAR) has requested that the Board refer to the United States Environmental Protection Agency in the same manner throughout all of our bodies of regulations—*i.e.*, air, water, drinking water, RCRA Subtitle D (municipal solid waste landfill), RCRA Subtitle C (hazardous waste), underground injection control (UIC), etc. The Board has decided to refer to the United States Environmental Protection Agency as “USEPA.” We will continue this conversion in future rulemakings as additional sections become open to amendment. We will further convert “EPA” used in federal text to “USEPA,” where USEPA is clearly intended.

The Board has assembled tables to aid in the location of these alterations and to briefly outline their intended purpose. The tables set forth the miscellaneous deviations from the federal text and corrections to the pre-amended base text of the rules in detail. The tables are set forth and explained immediately below this opinion. There is no further discussion of most of the deviations and revisions elsewhere in this opinion.

Discussion of Miscellaneous Housekeeping Amendments

The tables below list numerous corrections and amendments that are not based on current federal amendments. The first table (beginning immediately below) includes deviations made in this Proposal for Public Comment from the verbatim text of the federal amendments. The second table (beginning below at page 7) contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in this second table are not directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning at page 3 of this opinion.

**Table 1:
Deviations from the Text of the Federal Amendments**

Illinois Section	40 C.F.R. Section	Revision(s)
810.103 “construction and demolition landfill”	258.2	Placed the defined term in standard typeface and placed it in quotation marks; changed the spelling of “land fill” to “landfill”; removed the parentheses from the alternative defined term “C&D landfill” and placed it in quotation marks; changed “part 257, subparts A or B of this chapter” to “Subparts A or B of 40 CFR 257”; changed “§ 261.3 or this chapter” to “35 Ill. Adm. Code 721.103”; changed “§ 258.2 or this chapter” to “this Section”; “40 CFR part 257, subpart B of this chapter” to “Subpart B of 40 CFR 257”; changed “§ 261.5 or this chapter” to “35 Ill. Adm. Code 721.105”; changed “construction/renovation” to “construction and renovation”
810.103 “municipal solid waste landfill unit”	258.2	Added “which” before “does not receive” for a restrictive relative clause
810.103 “residential lead-based paint waste”	258.2	Placed the defined term in standard typeface and placed it in quotation marks; changed "which" to "that" for a restrictive relative clause; added a comma after "" to offset the final element of a series; added a comma after "renovation" to offset the final element of a series; changed "lead based" to hyphenated "lead-based"
811.302(f) Board note	258.10 note	Added “federal” before “Wendell H. Ford Aviation . . . Act”; deleted the <i>Public Laws</i> citation; corrected the reference “49 USC 44718 note” to “49 USC 44718(d)”; changed “new MSWLF’s” to singular “a new MSWLF”

**Table2 :
Board Housekeeping Amendments**

Section	Source	Revision(s)
810.103 preamble	Board	Changed "shall be" to "will be"
810.103 “Act”	Board	Removed the unnecessary comma after "Act"

810.103 “admixtures”	Board	Added a comma after "bentonite" to offset the final element of a series
810.103 “Agency”	Board	Added an ending period after “Act”
810.103 “bedrock”	Board	Added a comma after "alluvium" to offset the final element of a series
810.103 “beneficially usable waste”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “borrow area”	Board	Added a comma after "alluvium" to offset the final element of a series
810.103 “coal combustion power generating facilities”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “dead animal disposal site”	Board	Removed the commas that offset “225 ILCS 610” and placed the citation in brackets; removed the commas that offset “8 Ill. Adm. Code 90” and placed the citation in parentheses
810.103 “disposal”	Board	Changed "shall" to "will"
810.103 “documentation”	Board	Added a comma after "bonds" to offset the final element of a series
810.103 “existing facility”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “existing MSWLF unit”	Board	Added an ending period after “Act”
810.103 “facility”	Board	Changed "shall be" to "will be"
810.103 “geotextiles”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “groundwater”	Board	Added an ending period after “Act”
810.103 “household waste”	Board	Added an ending period after “Act”
810.103 “inert waste”	Board	Changed "shall" to "will"; added a comma after "masonry" to offset the final element of a series
810.103 “lateral expansion”	Board	Added an ending period after “Act”
810.103 “lift”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “malodor”	Board	Added an ending period after “pollution”
810.103 “municipal solid waste landfill unit”	Board	Added an ending period after “Act”
810.103 “National Pollutant Discharge Elimination System”	Board	Changed “Environmental Protection Act” to the defined short-form “Act”; added a comma after “Act” to offset the final element of a series; changed “and 35 Ill. Adm. Code 309.Subpart A and 310” to “Subpart A of 35 Ill. Adm. Code 309, and 35 Ill. Adm. Code 310”

810.103 “NPDES permit”	Board	Added the ending period
810.103 “new facility”	Board	Changed “shall be” to “will be”
810.103 “new MSWLF unit”	Board	Added an ending period after “Act”
810.103 “one hundred (100)-year flood plain”	Board	Changed “one hundred (100) year” to hyphenated “one hundred (100)-year”; changed "which" to "that" for a restrictive relative clause
810.103 “one hundred (100)-year, 24-hour precipitation event”	Board	Changed “one hundred (100) year” to hyphenated “one hundred (100)-year”; changed “24 hour” to hyphenated “24-hour” (twice)
810.103 “person”	Board	Added an ending period after “Act”
810.103 “professional engineer”	Board	Removed the quotation marks from the statute name “Illinois Professional . . . of 1989”; changed “The” to lower-case “the”
810.103 “putrescible waste”	Board	Changed "which" to "that" for a restrictive relative clause; changed "shall be" to "will be"
810.103 “publicly owned treatment works”	Board	Added a comma after "recycling" to offset the final element of a series; added a comma after "pipes" to offset the final element of a series; changed "which" to "that" for a restrictive relative clause
810.103 “Resource Conservation and Recovery Act”	Board	Added the conjunction “and” before “Recovery”; added an ending period after “Act”
810.103 “salvaging”	Board	Added a comma after "vectors" to offset the final element of a series
810.103 “scavenging”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “settlement”	Board	Added a comma after "soil" to offset the final element of a series
810.103 “shredding”	Board	Changed numeric "3 inch" to written, hyphenated "three-inch"
810.103 “significant modification”	Board	Added a comma after "occur" to offset the final element of a series; added a comma after "intermediate" to offset the final element of a series; added a comma after "efficiency" to offset the final element of a series; removed the unnecessary comma after "system" that separated a two-element series
810.103 “slag”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “sole source aquifer”	Board	Removed the unnecessary comma after "1974"
810.103 “twenty-five (25)-year, 24-hour precipitation event”	Board	Changed “twenty five (25) year” to hyphenated “twenty-five (25)-year”; changed “24 hour” to hyphenated “24-hour”

810.103 “uppermost aquifer”	Board	Changed "which" to "that" for a restrictive relative clause
810.103 “waste pile”	Board	Changed "shall" to "must"; added a comma after "records" to offset the final element of a series
810.103 “waste stabilization”	Board	Added a comma after "physical" to offset the final element of a series; changed "which" to "that" for a restrictive relative clause
811.302(a)	Board	Changed "shall" to "must"
811.302(b)	Board	Changed "shall" to "must"; added a comma before "unless" to offset a parenthetical
811.302(b)(3)	Board	Added a comma after "fractures" to offset the final element of a series
811.302(c)	Board	Changed "shall" to "must"; changed numeric "8" to written "eight"
811.302(d)	Board	Changed "no part . . . shall be located" to "no part . . . may be located"
811.302(e)	Board	Changed "shall not be located" to "may not be located"; added the parenthetical “(FAA)” to define the abbreviation
811.302(f)	Board	Changed "shall" to "must"; removed “Federal Aviation Administration” and the parentheses from the defined abbreviation “FAA”; changed numeric "7" to written "seven"
811.302(f) Board note	Board	Changed "subsection (f)" to "subsection (f) of this Section"; Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including a <i>Federal Register</i> citation for later amendments

ORDER

The complete text of the proposed amendments follows:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section	
810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. _____, effective _____.

NOTE: Capitalization indicates statutory language.

Section 810.103 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 ~~shall be~~ will be the same as that applied to the same words or terms in the Environmental Protection Act (Act) [415 ILCS 5]:

“Act” means the Environmental Protection Act, [415 ILCS 5].

“Admixtures” are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite, and sodium silicate.

“AGENCY” IS THE ENVIRONMENTAL PROTECTION AGENCY ESTABLISHED BY THE ENVIRONMENTAL PROTECTION ACT. (Section 3.08 of the Act.)

“Applicant” means the person submitting an application to the Agency for a permit for a solid waste disposal facility.

“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].)

“Bedrock” means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium, or glacial drift.

“Beneficially usable waste” means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors,

form a gas, cause an odor, or form a leachate that contains constituents ~~that~~ which exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

“BOARD” IS THE POLLUTION CONTROL BOARD ESTABLISHED BY THE ACT. (Section 3.04 of the Act.)

“Borrow area” means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways, or berms.

“Chemical waste” means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

“Coal combustion power generating facilities” means establishments ~~which~~ that generate electricity by combusting coal and which utilize a lime or limestone scrubber system.

“Construction and demolition landfill” or “C&D landfill” means a solid waste disposal facility subject to the requirements in Subparts A or B of 40 CFR 257 that receives construction and demolition waste and does not receive hazardous waste (defined in 35 Ill. Adm. Code 721.103) or industrial solid waste (defined in this Section). Only a C&D landfill that meets the requirements of Subpart B of 40 CFR 257 may receive conditionally exempt small quantity generator waste (defined in 35 Ill. Adm. Code 721.105). A C&D landfill typically receives any one or more of the following types of solid wastes: roadwork material, excavated material, demolition waste, construction and renovation waste, and site clearance waste.

“Contaminated leachate” means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

“Dead animal disposal site” means an on-the-farm disposal site at which the burial of dead animals is done in accordance with the Illinois Dead Animal Act; [225 ILCS 610;] and regulations adopted pursuant thereto; (8 Ill. Adm. Code 90).

“Design Period” means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

“DISPOSAL” MEANS THE DISCHARGE, DEPOSIT, INJECTION, DUMPING, SPILLING, LEAKING OR PLACING OF ANY SOLID WASTE INTO OR ON ANY LAND OR WATER OR INTO ANY WELL SUCH THAT SOLID WASTE OR ANY CONSTITUENT OF THE SOLID WASTE MAY ENTER THE ENVIRONMENT BY BEING EMITTED INTO THE AIR OR

DISCHARGED INTO ANY WATERS, INCLUDING GROUNDWATER.
 (Section 3.08 of the Act.) If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation ~~shall~~will constitute disposal.

“Disturbed areas” means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

“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.

“Earth liners” means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

“Existing facility” or “Existing unit” means a facility or unit ~~which~~that is not defined in this Section as a new facility or a new unit.

“EXISTING MSWLF UNIT” MEANS ANY MUNICIPAL SOLID WASTE LANDFILL UNIT THAT HAS RECEIVED HOUSEHOLD WASTE BEFORE OCTOBER 9, 1993. (Section 3.87 of the Act.)

“Facility” means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage or disposal operation. All structures used in connection with or to facilitate the waste disposal operation ~~shall be~~will be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

“Field capacity” means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

“Foundry sand” means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

“Gas collection system” means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and

monitoring installations that collect and transport the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

“Gas condensate” means the liquid formed as a landfill gas is cooled or compressed.

“Gas venting system” means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

“Geomembranes” means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

“Geotextiles” are permeable manufactured materials used for purposes ~~which~~ that include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, and collecting and draining liquids and gases beneath the ground surface.

“GROUNDWATER” MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND WITHIN GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3 of the Illinois Groundwater Protection Act.)

“HOUSEHOLD WASTE” MEANS ANY SOLID WASTE (INCLUDING GARBAGE, TRASH, AND SANITARY WASTE IN SEPTIC TANKS) DERIVED FROM HOUSEHOLDS (INCLUDING SINGLE AND MULTIPLE RESIDENCES, HOTELS AND MOTELS, BUNKHOUSES, RANGER STATIONS, CREW QUARTERS, CAMPGROUNDS, PICNIC GROUNDS, AND DAY-USE RECREATION AREAS). (Section 3.89 of the Act.)

“Hydraulic barriers” means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to, cutoff walls, slurry walls, grout curtains and liners.

“Inert waste” means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes ~~shall~~ will include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

“Iron slag” means slag.

“Land application unit” means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

“LATERAL EXPANSION” MEANS A HORIZONTAL EXPANSION OF THE ACTUAL WASTE BOUNDARIES OF AN EXISTING MSWLF UNIT OCCURRING ON OR AFTER OCTOBER 9, 1993, A HORIZONTAL EXPANSION IS ANY AREA WHERE SOLID WASTE IS PLACED FOR THE FIRST TIME DIRECTLY UPON THE BOTTOM LINER OF THE UNIT, EXCLUDING SIDE SLOPES ON OR AFTER OCTOBER 9, 1993. (Section 3.88 Of the Act.)

“Leachate” means liquid that has been or is in direct contact with a solid waste.

“Lift” means an accumulation of waste ~~which~~ that is compacted into a unit and over which cover is placed.

“Low risk waste” means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

“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. (Section 3.02 of the Act (defining “air pollution”).)

“MUNICIPAL SOLID WASTE LANDFILL UNIT” OR “MSWLF UNIT” MEANS A CONTIGUOUS AREA OF LAND OR AN EXCAVATION THAT RECEIVES HOUSEHOLD WASTE, AND THAT IS NOT A LAND APPLICATION, SURFACE IMPOUNDMENT, INJECTION WELL, OR ANY PILE OF NONCONTAINERIZED ACCUMULATIONS OF SOLID, NONFLOWING WASTE THAT IS USED FOR TREATMENT OR STORAGE. A MSWLF UNIT MAY ALSO RECEIVE OTHER TYPES OF RCRA

SUBTITLE D WASTES, SUCH AS COMMERCIAL SOLID WASTE, NONHAZARDOUS SLUDGE, SMALL QUANTITY GENERATOR WASTE AND INDUSTRIAL SOLID WASTE. SUCH A LANDFILL MAY BE PUBLICLY OR PRIVATELY OWNED OR OPERATED. A MSWLF UNIT MAY BE A NEW MSWLF UNIT, AN EXISTING MSWLF UNIT OR A LATERAL EXPANSION. A SANITARY LANDFILL IS SUBJECT TO REGULATION AS A MSWLF IF IT RECEIVES HOUSEHOLD WASTE. (Section 3.85 of the Act.) A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.

“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 U.S.C. 1251 et seq.), Section 12(f) of the ~~Environmental Protection Act, and Subpart A of 35 Ill. Adm. Code 309.~~ Subpart A, and 35 Ill. Adm. Code 310. “NPDES permit” means a permit issued under the NPDES program.

“NPDES permit” means a permit issued under the NPDES program.

“New facility” or “New unit” means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act that has not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act that has no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

It is a landfill with a unit whose maximum design capacity or lateral extent is increased after September 18, 1990.

BOARD NOTE: A new unit located in an existing facility ~~shall be~~ will be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

“NEW MSWLF UNIT” MEANS ANY MUNICIPAL SOLID WASTE LANDFILL UNIT THAT HAS RECEIVED HOUSEHOLD WASTE ON OR AFTER OCTOBER 9, 1993 FOR THE FIRST TIME. (Section 3.86 of the Act.)

“One hundred-~~(100)-year~~ (100)-year flood plain” means any land area ~~which that~~ is subject to a one percent or greater chance of flooding in a given year from any source.

“One hundred-~~(100)-year~~ (100)-year, ~~24 hour~~ 24-hour precipitation event” means a precipitation event of ~~24 hour~~ 24-hour duration with a probable recurrence interval of once in 100 years.

“Operator” means the person responsible for the operation and maintenance of a solid waste disposal facility.

“Owner” means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The “owner” is the “operator” if there is no other person who is operating and maintaining a solid waste disposal facility.

“Perched watertable “ means an elevated watertable above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

“Permit area” means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

“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. (Section 3.26 of the Act.)

“Potentially usable waste” means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

“Poz-O-Tec materials” means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD) sludges and ash produced by coal combustion power generation facilities as raw materials.

“Poz-O-Tec monofill” means a landfill in which solely Poz-O-Tec materials are placed for disposal.

“Professional engineer” means a person who has registered and obtained a seal pursuant to “~~The the~~ Illinois Professional Engineering Practice Act of 1989” [225 ILCS 325].

“Professional land surveyor” means a person who has received a certificate of registration and a seal pursuant to the Illinois Professional Land Surveyors Act of 1989 [225 ILCS 330].

“Putrescible waste” means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes ~~which that~~ do not meet the definitions of inert or chemical wastes ~~shall be~~ will be considered putrescible wastes.

“Publicly owned treatment works” or “POTW” means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government ~~which that~~ has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

“Recharge zone” means an area through which water can enter an aquifer.

“Residential lead-based paint waste” means waste containing lead-based paint that is generated as a result of activities such as abatement, rehabilitation, renovation, and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges.

“RESOURCE CONSERVATION AND RECOVERY ACT” or “RCRA” MEANS THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (P.L. 94-580 Codified as 42 USC. §§ 6901 et seq.) AS AMENDED. (Section 3.90 of the Act.)

“Responsible charge,” when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

“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 waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors, or cause an unsightly appearance.

“Scavenging” means the removal of materials from a solid waste management facility or unit ~~which~~ that is not salvaging.

“Seismic Slope Safety Factor” means the ratio between the resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

“Settlement” means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil, and adjacent operations involving excavation.

“Shredding” means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a ~~3-inch~~ three-inch sieve.

“Significant Modification” means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act and 35 Ill. Adm. Code 813 that is required when one or more of the following changes (considered significant when that change is measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit) are planned, occur, or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate, or final cover;

A decrease in performance, efficiency, or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

A change in configuration, performance, or efficiency of the leachate management system;

A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system; or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

“Slag” means the fused agglomerate ~~which~~ that separates in the iron and steel production and floats on the surface of the molten metal.

“Sole source aquifer” means those aquifers designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974; (42 U.S.C 300h-3).

“Solid Waste” means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

“SPECIAL WASTE” MEANS ANY INDUSTRIAL PROCESS WASTE, POLLUTION CONTROL WASTE OR HAZARDOUS WASTE, EXCEPT AS

DETERMINED PURSUANT TO SECTION 22.9 OF THE ACT and 35 Ill. Adm. Code 808. (Section 3.45 of the Act.)

“Static Safety Factor” means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

“Steel slag” means slag.

“Surface impoundment” means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

“Twenty-five-~~(25)~~-year (25)-year, 24-hour-24-hour precipitation event” means a precipitation event of ~~24-hour~~24-hour duration with a probable recurrence interval of once in 25 years.

“Uppermost aquifer” means the first geologic formation above or below the bottom elevation of a constructed liner or wastes, where no liner is present, ~~which~~that is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility’s permit area.

“Unit” means a contiguous area used for solid waste disposal.

“Unit of local government” means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

“Waste pile” means an area on which non-containerized masses of solid, non flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration ~~shall~~must include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

“Waste stabilization” means any chemical, physical, or thermal treatment of waste, either alone or in combination with biological processes, ~~which~~that results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

“Working face” means any part of a landfill where waste is being disposed of.

“Zone of attenuation” is the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811
 STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	
811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance
811.112	Recordkeeping Requirements for MSWLF Units

SUBPART B: INERT WASTE LANDFILLS

Section	
811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
811.205	Final Slope and Stabilization
811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	
811.301	Scope and Applicability
811.302	Facility Location
811.303	Design Period

811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeological Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater Monitoring Systems
811.319	Groundwater Monitoring Programs
811.320	Groundwater Quality Standards
811.321	Waste Placement
811.322	Final Slope and Stabilization
811.323	Load Checking Program
811.324	Corrective Action Measures for MSWLF Units
811.325	Selection of remedy for MSWLF Units
811.326	Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section	
811.401	Scope and Applicability
811.402	Notice to Generators and Transporters
811.403	Special Waste Manifests
811.404	Identification Record
811.405	Recordkeeping Requirements
811.406	Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section	
811.501	Scope and Applicability
811.502	Duties and Qualifications of Key Personnel
811.503	Inspection Activities
811.504	Sampling Requirements
811.505	Documentation
811.506	Foundations and Subbases
811.507	Compacted Earth Liners
811.508	Geomembranes
811.509	Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section	
811.700	Scope, Applicability and Definitions
811.701	Upgrading Financial Assurance
811.702	Release of Financial Institution
811.703	Application of Proceeds and Appeals
811.704	Closure and Postclosure Care Cost Estimates
811.705	Revision of Cost Estimate
811.706	Mechanisms for Financial Assurance
811.707	Use of Multiple Financial Mechanisms
811.708	Use of a Financial Mechanism for Multiple Sites
811.709	Trust Fund for Unrelated Sites
811.710	Trust Fund
811.711	Surety Bond Guaranteeing Payment
811.712	Surety Bond Guaranteeing Performance
811.713	Letter of Credit
811.714	Closure Insurance
811.715	Self-Insurance for Non-commercial Sites
811.716	Local Government Financial Test
811.717	Local Government Guarantee
811.718	Discounting
811.719	Corporate Financial Test
811.720	Corporate Guarantee
811.Appendix A	Financial Assurance Forms
Illustration A	Trust Agreement
Illustration B	Certificate of Acknowledgment
Illustration C	Forfeiture Bond
Illustration D	Performance Bond
Illustration E	Irrevocable Standby Letter of Credit
Illustration F	Certificate of Insurance for Closure and/or Postclosure Care
Illustration G	Operator's Bond Without Surety
Illustration H	Operator's Bond With Parent Surety
Illustration I	Letter from Chief Financial Officer
811.Appendix B	Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill.

Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. _____, effective _____.

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.302 Facility Location

- a) No part of a unit ~~shall~~may be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;
- b) No part of a unit ~~shall~~may be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Drinking Water Act (42 USC 300f et seq.),₂ unless there is a stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:
 - 1) The stratum has a minimum thickness of 15.2 meters (50 feet);
 - 2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than 1×10^{-7} centimeters per second, as determined by in situ borehole or equivalent tests;
 - 3) There is no indication of continuous sand or silt seams, faults, fractures,₂ or cracks within the stratum that may provide paths for migration; and
 - 4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters (50 feet) in 100 years.
- c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway ~~shall~~must have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (~~8~~eight feet) in height.
- d) No part of a unit ~~shall~~may be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.

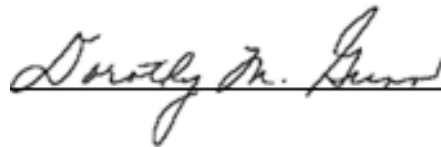
- e) The facility ~~shall~~ may not be located closer than 1525 meters (5000 feet) of any runway used by piston type aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration (FAA) provides the operator with written permission, including technical justification, for a closer distance.
- f) An owner or operator proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft ~~shall~~ must notify the affected airport and the ~~Federal Aviation Administration (FAA)~~ within ~~7~~ seven days of filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 258.10-~~(1992)~~ (2003), as amended at 68 Fed. Reg. 59333 (October 15, 2003). A prohibition on locating a new MSWLF near certain airports was enacted in Section 503 of the federal Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act) (49 U.S.C. 44718(d)). Section 503 prohibits the "construction or establishment" of a new MSWLF after April 5, 2000 within six miles of certain smaller public airports. The Federal Aviation Administration (FAA) administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above proposed opinion and order was adopted on March 18, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board