

ILLINOIS POLLUTION CONTROL BOARD
December 1, 2005

IN THE MATTER OF:)
)
CLEAN CONSTRUCTION OR DEMOLITION) R06-19
DEBRIS FILL OPERATIONS UNDER P.A.) Rulemaking - Land
94-272 (35 ILL. ADM. CODE PART 1100))

ORDER OF THE BOARD (by N.J. Melas):

On November 21, 2005, the Illinois Environmental Protection Agency (Agency) filed a proposal to add a new Part 1100 of the Board's regulations concerning clean construction or demolition debris fill operations. The Agency proposes the amendments, pursuant to Public Act 94-272, to allow the use of clean construction or demolition debris (CCDD) as fill material in current and former quarries, mines, and other excavations. Public Act 94-272 requires the Board to adopt rules no later than September 1, 2006.

In the proposal, the Agency states that it conducted public outreach on the draft language. While the Agency was able to incorporate many comments into the proposed rules, "several points of disagreement remain, but the Illinois EPA is not aware of major objections by the regulated community to the current language proposed for Part 1100." The two issues the Agency raises in the proposal are the regulated community's objection to the proposed notification procedure in the proposed Section 1100.302, as well as the need for a professional engineer's certification for both closure and post-closure in the proposed Section 1100.412.

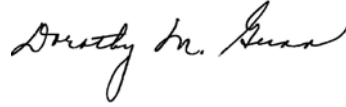
The Board's procedural rules require the proponent to submit copies of any material to be incorporated by reference in the proposed rule. In addressing this requirement, the Agency requests that the Board waive the requirement to file a 3,500-page USEPA publication entitled: Test Methods for Evaluating Solid Waste, Physical/Chemical methods, EPA Publication SW-846 (Third Edition, 1986 as amended by Updates I, II, IIA, IIB, III, IIIA and IIIB). Because the Board has this publication in its possession, the Board grants the request and waives the requirement to file that document under Section 102.202(d).

Further review of the proposal reveals that the Agency did not address the applicability of or provide the information requested in the "published study or report" requirement of Section 102.202(e). 35 Ill. Adm. Code 102.202(e); *see also* 35 Ill. Adm. Code 102.202(k).

Given the short timeframe for the completion of this rulemaking, the Board accepts this proposal for hearing and directs the assigned hearing officer to proceed expeditiously under the rulemaking provisions of the Act and Board procedural rules. 415 ILCS 5/27, 28 (2004); 35 Ill. Adm. Code 102. The Board, however, requests that the Agency address subsection 102.202(e) in writing prior to any hearing scheduled in this proceeding at such time as directed by the hearing officer.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 1, 2005, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board