

ILLINOIS POLLUTION CONTROL BOARD  
August 24, 1995

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE ) R95-9  
810.103 (SOLID WASTE DISPOSAL ) (Rulemaking - Land)  
GENERAL PROVISION) CONCERNING )  
ON-FARM DISPOSAL OF DEAD ANIMALS )

Proposed Rule.

Second Notice.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board upon a proposal to amend the Board's solid waste disposal regulations jointly filed by the Illinois Farm Bureau, Illinois Beef Association, Illinois Lamb and Wool Producers, Inc., Illinois Milk Producers Association, and the Illinois Pork Producers Association (joint proponents).

The joint proponents request that the Board's solid waste disposal regulations be amended to clarify that an on-farm site used for the burial disposal of dead animals, where the disposal is conducted in accordance with the Illinois Dead Animal Disposal Act (225 ILCS 610/1 et seq.), does not constitute a landfill subject to the Board's regulations governing landfills.

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (1994)). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" (415 ILCS 5/5(b)). More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations.

By today's action the Board adopts the proposed amendments for the purpose of second notice, pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 et seq. (1994)). This matter will now be filed with the Joint Committee on Administrative Rules (JCAR) for consideration by that body<sup>1</sup>.

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<sup>1</sup> JCAR staff has as of this date undertaken a preliminary review of the text of today's proposal. Based on that review, JCAR has communicated to the Board suggestions for several typographical changes in the wording of the first notice text. These changes are incorporated into today's second notice text.

PROCEDURAL HISTORY

The joint proponents filed their proposal on February 2, 1995. By order of February 16, 1995 the Board accepted the proposal for hearing and granted joint proponents' motion to substitute membership certifications in lieu of 200 signatures. On February 17, 1995 the hearing officer issued an order establishing the hearing schedule.

Hearings were held before hearing officer Audrey Lozuk-Lawless in DeKalb on April 3, 1995 and in Springfield on April 10, 1995<sup>2</sup>. Testimony was presented by the joint proponents, the Illinois Environmental Protection Agency (Agency), and the Illinois Department of Agriculture (Department). The joint proponents presented Nancy Erickson, Jack Fisher, Allan Aves, and Randy Sims on behalf of the Illinois Farm Bureau; Roger Brown on behalf of the Illinois Pork Producers Association; Kenneth McPeck and Jim Fraley on behalf of the Illinois Milk Producers Association; Jamie Willrett and Scott Torrance on behalf of the Illinois Beef Association; and Joe Pickrell on behalf of the Illinois Wool and Lamb Producers. Dave Bateman presented testimony on own behalf as a livestock producer. A.G. Taylor presented testimony on behalf of the Agency and Dr. David Browell testified on behalf of the Department. All witnesses spoke in support of the proposal.

By order of May 18, 1995 the Board adopted the joint proponents proposal for purpose of first notice. First notice publication occurred in the *Illinois Register* Vol. 19, p. 7502, on June 9, 1995. The forty-five day public comment period prescribed under the APA expired on July 24, 1995.

The Board has received three public comments (PC), all of which were filed during the post-first notice comment period. The Illinois Beef Association in PC #1 notes its continued active support for adoption of the today's amendments. By PC #2 the Illinois Pork Producers Association affirms its support of the amendments and reiterates its belief that the best and most economical method of disposal of dead animals is by burial. In PC #3 the Illinois Farm Bureau urges the Board to move quickly to adopt today's amendments, and reiterates its belief that the proposed language helps to make disposal of dead animals more logical, economically feasible, and efficient for livestock producers.

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They do not alter the substance of any of the existing or proposed text.

<sup>2</sup> Transcripts of the two hearings are cited herein respectively as "Tr.1" and "Tr.2".

OVERVIEW

The Illinois General Assembly has long recognized that proper disposal of dead animals is a matter of public interest. Pursuant thereto, the General Assembly has enacted, and amended as warranted, the Illinois Dead Animal Disposal Act<sup>3</sup>. The Illinois Dead Animal Disposal Act is administered by the Department.

The disposal of dead animals is further governed by regulations adopted by the Department under authorities granted to it in the Illinois Dead Animal Disposal Act. These regulations are found at 8 Ill. Adm. Code 90.

At particular issue in the instant matter are the Department's regulations found at 8 Ill. Adm. Code 90.110(b), which deal with on-farm disposal of dead animals via burial<sup>4</sup>.

The Board also has various regulations governing disposal via burial. These occur in the Board's solid waste management regulations, including 35 Ill. Adm. Code 810 et seq., that principally govern landfills and landfilling.

The purpose of today's proposed amendments is to clarify the relationship between the Department's on-farm dead animal disposal regulations and the Board's landfill regulations. The purpose is to clarify that on-farm sites where burial disposal is conducted in accordance with the Illinois Dead Animal Disposal Act, and regulations promulgated thereto, are not landfills subject also to the Board's landfill regulations<sup>5</sup>.

The substance of the proposal consists of the addition of one definition, and the modification of two others, at 35 Ill. Adm. Code 810.103. Section 810.103 contains definitions generally applicable within the Board's solid waste disposal

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<sup>3</sup> The Illinois Dead Animal Disposal Act was originally adopted in 1941. It was most recently amended effective January 1, 1994.

<sup>4</sup> Section 90.110 also addresses on-farm disposal via incineration and composting. Section 90.110 was most recently amended effective September 16, 1994.

<sup>5</sup> The Board observes that on-farm disposal of dead animals that is not conducted in accordance with the Dead Animal Disposal Act would be an action subject to enforcement under the Dead Animal Disposal Act and the Department regulations. Moreover, such disposal would not be exempt from regulation under the Board's solid waste disposal regulations, and enforcement could also follow from that cause.

regulations. The added definition is for a "dead animal disposal site", which is proposed to be defined by:

"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 Disposal Act, 225 ILCS 610, see<sup>6</sup> P.A. 88-133, effective January 1, 1994, and regulations adopted pursuant thereto, 8 Ill. Adm. Code 90.

The modified definitions are "landfill" and "municipal solid waste landfill unit". Dead animal disposal sites would be excluded from each of these definitions, and thereby from regulation as either a landfill or municipal solid waste landfill unit.

#### JUSTIFICATION FOR PROPOSED AMENDMENTS

##### History

Need for the instant action was originally raised among the joint proponents when it was observed that the Board's solid waste disposal regulations allowed for a reading that on-farm disposal of dead animals via burial might cause the Board's landfill regulations to come into play. (Tr.1 at 17.) This raised further concerns among the joint proponents that their constituent membership might face prohibitive expenses in complying with the landfill regulations, or alternatively face prosecution. (Tr.1 at 17-18.)

A particular provision of the Board's solid waste regulations of concern to joint petitioners is the definition of "putrescible waste"<sup>7</sup> at 35 Ill. Adm. Code 810.103, which contains the statement:

Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. (emphasis added)

Joint petitioners contend that in 1990 when the Board's current solid waste disposal regulations (including the definition of putrescible waste) were being formulated, the livestock community was advised that the regulations were intended to address only dead animals going into municipal

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<sup>6</sup> The phrase "see P.A. 88-133" found in today's language had been "as amended by P.A. 88-133" in the first notice proposal. The change is made today at the recommendation of JCAR staff.

<sup>7</sup> Putrescible waste is one of the main categories of waste governed by the Board's landfill regulations.

landfills. (Tr.1 at 17.) The joint proponents nevertheless believed that greater clarification was needed. (Tr.1 at 18.)

The initial regulatory action undertaken by the joint proponents was to seek amendment of the Department's animal disposal regulations at 8 Ill. Adm. Code 90. (Tr.1 at 19.) This included putting into place the current on-farm burial regulations at 90.110(b). Provisions at 90.110(b) include: restriction of burial to premises owned or operated by the owner of the dead animal; requiring burial sites to have a minimum of 200 or 400 foot setbacks from streams, wells, and other water sources; requiring a minimum setback from residences; imposition of measures to minimize disease and nuisance vectors and soil erosion; imposition of final cover and slope requirements; authorization of site inspection by the Department; and limitations on the number of animals that can be buried per site and area over time.

The joint proponents, the Department, and the Agency all agree that the provisions at 90.110(b) offer sufficient environmental protection for on-farm disposal such that any additional requirements that would flow from the Board's solid waste disposal regulations (e.g., landfill permits, liners, leachate collection systems, groundwater monitoring) are not only burdensome, but unnecessary. (Tr.1 at 26.)

### Disposal Options

Death of animals is an unwelcome but integral element of any livestock operation. (Tr.1 at 31, 53; Tr.2 at 25-26.) Annual on-farm losses of livestock are typically 1% to 4%, depending upon the type of animal and operation. (Tr.1 at 27, 37.)

There are a number of potential options available for the disposal of dead animals. These include rendering, incineration, composting, off-site burial disposal, and on-site burial disposal.

Rendering was once a principal method of disposal of dead animals. It was accomplished by commercial renderers who provided at-farm pickup services. However, due to a lack of demand for animal by-products, few renderers remain in business (Tr. 1 at 28, 33, 62), and even these provide a service limited to only certain types of animals and pickup opportunities (Tr.1 at 28, 41, 48; Tr.2 at 17.) At present there is no renderer operating out of the entire northern half of the State. (Tr.1 at 89.) Accordingly, disposal via rendering is of limited prospect for many livestock producers.

Disposal via incineration in a permitted incinerator is allowed by regulation, but is generally not economical. (Tr.1 at 62.) Capitalization alone for an approvable incinerator ranges from \$12,000 to \$20,000. (Tr.1 at 29, 32.) In addition, there

are substantial operation costs and the need to obtain and maintain operating permits. (Tr.1 at 32-33; Tr.2 at 30.)

Composting regulations are currently under development. At this juncture, however, it would not appear that composting will be a viable disposal mechanism for other than quite small animals (e.g., chickens, newborn pigs) and fish. (Tr.1 at 49, 63.)

Off-site burial disposal of dead livestock may be undertaken only at permitted landfills, pursuant to the Board's solid waste disposal regulations. While disposal at landfills is the acceptable disposal method for some livestock producers, it is not workable for many others due to the high cost of transportation and tipping, as well as the refusal of many landfills to even accept dead animals. (Tr.1 at 28, 50; Tr.2 at 18, 25.)

By elimination, the only economical and practical method of disposal available to many producers is on-farm burial. Moreover, on-farm burial disposal has the advantage of allowing for timely disposal, which is an important factor in disease control. (Tr.1 at 31, 34; Tr.2 at 24.)

#### CONCLUSION

The Board believes, as the joint proponents, Department, and Agency all contend, that on-farm burial conducted in accordance with the Dead Animal Disposal Act and the Department's attendant regulations is environmentally sound.

The Board further observes that it was never our intention to have properly conducted, on-farm disposal of dead animals come under the jurisdiction of our landfill regulations. We agree with the joint proponents that the panoply of requirements demanded for the proper construction and operation of a solid waste landfill are unnecessary and unwarranted for the type of on-farm burial disposal of concern to the joint proponents.

Accordingly, we today find that the record before us justifies adopting the joint proponents' proposal for second notice.

#### ORDER

The Board hereby directs that second notice of the following proposed amendments be submitted to the Joint Committee on Administrative Rules.

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 and 22.17, and authorized by Section 27, of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 1005, 1021, 1021.1, 1022, 1022.17 and 1027) [415 ILCS 5/5, 21, 21.1, 22, 22.17 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. \_\_\_\_\_, 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 the same as that applied to the same words or terms in the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111½, pars. 1001 et. seq.) [415 ILCS 5]:

"Act" means the Environmental Protection Act, Ill. Rev. Stat. 1991, ch. 111½, pars. 1001 et. seq [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 (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7453) [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 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.

"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 Disposal Act, 225 ILCS 610, see P.A. 88-133, effective January 1, 1994, 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 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 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 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 collects and transports 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 include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, 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 Section 811.202(b). Such inert wastes shall 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, a dead animal disposal site 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. FOR PURPOSES OF THIS SECTION, 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 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 TO 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, a dead animal disposal site, 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)

"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 35 Ill. Adm. Code 309.Subpart A and 310.

"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 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 flood plain" means any land area which is subject to a one percent or greater chance of flooding in a given year from any source.

"One hundred (100) year, 24 hour precipitation event" means a precipitation event of 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.

"Professional engineer" means a person who has registered and obtained a seal pursuant to "the Professional Engineering Practice Act of 1989" (Ill. Rev. Stat 1991, ch. 111, par. 5201 et seq.) [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" (Ill. Rev. Stat. 1991, ch. 111, par. 3251 et seq.) [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 do not meet the definitions of inert or chemical wastes shall 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 has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"RESOURCE CONSERVATION RECOVERY ACT" "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)

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

"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 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 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 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 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, 24 hour precipitation event" means a precipitation event of 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 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 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 disposed elsewhere.

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

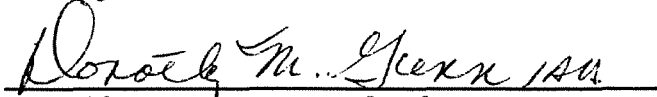
"Working face" means any part of a landfill where waste is being disposed.

"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 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 24<sup>th</sup> day of August, 1995, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board