BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
PROPOSED AMENDMENTS TO CLEAN	)	R12-009
CONSTRUCTION OR DEMOLITION	)	(Rulemaking – Land)
DEBRIS (CCDD) FILL OPERATIONS:	)	
PROPOSED AMENDMENTS TO 35 Ill.	)	
Adm. Code 1100	)	

**PRE-FILED QUESTIONS OF THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
SUBMITTED BY ILLINOIS CHAPTER OF THE NATIONAL SOLID WASTES
MANAGEMENT ASSOCIATION**

Illinois Chapter of the National Solid Wastes Management Association ("NSWMA") by and through its counsel, Jim Morphew, hereby files its questions of the Illinois Environmental Protection Agency ("IEPA") in this matter, as required by the Hearing Officer Order issued on August 15, 2011.

1. The IEPA has taken enforcement actions against a number of CCDD facilities for accepting waste materials. What procedures will be required if a CDDD facility or clean fill operation has accepted waste?   Will the IEPA require complete exhumation of the waste material? How will complete exhumation be verified? If complete exhumation is not possible and waste materials remain in place, will the facility be subject to the requirements of 35 IAC 811? If no, why not?

2. In its prefiled testimony, the IEPA stated "…However, the Agency anticipates a certain percentage may not meet these standards, and with the sheer volume of material accepted at these fill operations, even a small percentage of missed contamination could cause groundwater problems – especially since these fill operations are placing material directly in contact with groundwater." This is tacit admission that these facilities will cause ground water contamination. Given that that these facilities have no environmental protection systems, why isn't IEPA review and approval of groundwater monitoring program provided in the regulations? If it is a staffing issue, why not institute a permit fee that would pay for a third party review of the groundwater monitoring program?

3. Is the professional engineer who supervised the development of the monitoring program also responsible for reviewing groundwater monitoring data or can this individual be any person from the owner/operator?

4. Who will verify that the monitoring program has been implemented? Who will verify for example, if wells are installed at proper locations and depths? Is the owner/operator required to set aside monies for groundwater corrective action program, especially given the certainty that some groundwater contamination will occur?

5. How did the IEPA determine that the self-implementation nature of these rules by CCDD facilities and clean fill operations should be the same as for on-site landfills regulated under 35 IAC 815?

6. In regard to groundwater monitoring, not all parameters included in 35 IAC 620 Class I Groundwater standards are included in the Maximum Allowable Contamination Table and vise versa. Shouldn't all Class I Groundwater parameters be part of the evaluation of incoming soils in order to determine the potential to contaminate groundwater?

7. IEPA proposes to allow engineers or geologists the option to perform TCLP analysis on parameters and apply the 20 X rule to determine total content. Numerous observations have shown that this rule is not accurate. If a soil job was accepted based on TCLP results and a delegated authority arranged to have an analysis performed on an incoming load using total methods, would a violation be valid if the second results proved to be higher than the MAC?

8. The regulations are providing a method for sites to accept painted surfaces using TCLP methods which so not allow averaging of the results. If multiple analyses are performed on soil from a particular site, is averaging of these results allowed to provide compliance with MAC parameters?

9. What is the definition of ceasing dewatering operations? Does this imply that a site which continues to dewater after filling or shows an inward gradient after filling may be excused for groundwater monitoring?