

# ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
MANAGEMENT OF USED AND WASTE TIRES: ) No. R15-19  
PROPOSED AMENDMENTS TO 35 ILL. ADM. ) (Rulemaking-Land)  
CODE 848 )

REPORT OF THE PROCEEDINGS had in  
an open session at the hearing on a motion of the  
above-entitled cause before the HONORABLE CHAD KRUSE,  
Hearing Officer, Illinois Pollution Control Board,  
100 West Randolph Street, Suite 11-500, Chicago,  
Illinois, on April 15, 2015, at 1:00 p.m.

1 APPEARANCES:

2 ILLINOIS POLLUTION CONTROL BOARD

3 MR. CHAD KRUSE, Hearing Officer  
4 MS. CARRIE ZALEWSKI, Board Member  
5 MS. JENNIFER BURKE, Board Member  
6 MR. JEROME O'LEARY, Board Member  
7 MR. GERRY KEENAN, Board Member  
8 MR. ANAND RAO, Board Member

9 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

10 BY: MR. LARRY MRAZ  
11 1021 North Grand Avenue East  
12 P.O. Box 19276  
13 Springfield, Illinois 62794  
14 (217) 524-3306

15 Appeared on behalf of the Illinois  
16 Environmental Protection Agency

17 ALSO PRESENT:

18 MR. TODD J. MARVEL,  
19 Illinois Environmental Protection Agency  
20 MR. BRIAN WHITE,  
21 Illinois Environmental Protection Agency  
22 MR. TERRY A. GRAY,  
23 T.A.G. Resource Recovery  
24

25 REPORTED BY: MARY T. MURPHY McGUIRK, CSR  
26 Certificate No. 84-4160.

1 HEARING OFFICER KRUSE: Good afternoon and  
2 welcome to the Illinois Pollution Control Board  
3 hearing.

4 My name is Chad Kruse, and I am the  
5 hearing officer for this rulemaking proceeding  
6 entitled Management of Used and Waste Tires:  
7 Proposed Amendments to 35 Ill. Adm. Code 848 and  
8 docketed as R15-19 with the Board.

9 Also present today from the Board are, to  
10 my immediate left, board member Carrie Zalewski,  
11 who is the lead board member on this rulemaking.  
12 Next to her is board member Jennifer Burke and then  
13 board member Jerry O'Leary. Next to member O'Leary  
14 is board member Gerald Keenan. And then next to  
15 Mr. Keenan is Mr. Anand Rao of the Board's  
16 technical unit.

17 The Illinois Environmental  
18 Protection Agency filed this rulemaking proposal  
19 on December 22nd, 2014, under the rulemaking  
20 provisions of Sections 27 and 28 of the  
21 Environmental Protection Act.

22 The rulemaking proposal was submitted to  
23 the Board pursuant to Section 55.2 of the Act,  
24 revised by the 98th General Assembly. That section

1 of the Act mandates that the Agency propose and the  
2 Board adopt revisions to Part 848 within 15 months  
3 of the effective date of the amendments. In an  
4 order dated January 8, 2015, the Board accepted  
5 this proposal for hearing.

6 In an opinion and order dated  
7 February 5, 2015, the Board directed its clerk to  
8 cause publication of the rule for first notice in  
9 the Illinois Register without comment on the  
10 proposal's substance. The proposal appeared in the  
11 Illinois Register on February 27th, 2015, beginning  
12 at page 2,816.

13 The first hearing in this rulemaking was  
14 held in Springfield, Illinois, on March 5, 2015.  
15 During that hearing, the Illinois EPA offered  
16 testimony on the merits and economic impact of the  
17 proposed rulemaking. Specifically, the Board heard  
18 testimony from Mr. Brian White, Manager of the  
19 Compliance Unit in the Waste Reduction and  
20 Compliance Section of the Agency's Bureau of Land;  
21 Mr. Todd Marvel, Manager of the Used Tire Program  
22 in the Agency's Bureau of Land; and Mr. Terry Gray,  
23 President of T.A.G. Resource Recovery, a consulting  
24 firm specializing in waste tire management issues.

1 Mr. Gray worked closely with the Agency in  
2 development of the proposed rulemaking.

3 Since the March 5th hearing, the Board has  
4 expanded the notice list for this docket in  
5 response to the Illinois EPA providing contact  
6 information for persons tied to the used tire  
7 industry in Illinois and elsewhere in the Midwest.  
8 In addition, the Illinois EPA submitted  
9 post-hearing comments on March 31st in response to  
10 questions presented during the March 5th hearing.  
11 Today, we are holding the second and final  
12 scheduled hearing in this rulemaking.

13 By hearing officer order dated  
14 February 9, 2015, I indicated that participants  
15 wishing to pre-file testimony for today's hearing  
16 must have done so on or before April 1, 2015. The  
17 Board received no pre-filed testimony.

18 Since there was no pre-filed testimony  
19 filed with the Board, I will start today's hearing  
20 by swearing in the Illinois EPA witnesses. After  
21 introducing and swearing in Mr. White, Mr. Marvel,  
22 and Mr. Gray, and offering them the opportunity to  
23 make an opening statement, we will go right to  
24 questions for those gentlemen. The board members

1 will have the first opportunity to ask questions or  
2 make comments on the rulemaking. And next,  
3 interested persons in attendance today will be  
4 given the same opportunity.

5 In the interest of keeping an orderly  
6 transcript, I request that anyone asking a question  
7 please indicate which section or sections of the  
8 rulemaking the question pertains to before stating  
9 the question.

10 After testimony by and questions of the  
11 Agency, I will speak a bit more about the  
12 procedures moving forward in this rulemaking.

13 This proceeding is governed by the Board's  
14 procedural rules. All information that is relevant  
15 and that is not repetitious or privileged will be  
16 admitted into the record. Please note that any  
17 questions posed today by the Board and its staff  
18 are intended solely to assist in developing a clear  
19 and complete record for the Board's decision and do  
20 not reflect any prejudgment of the proposal.

21 Because this rulemaking was submitted and  
22 must be adopted under a statutory timeline, the  
23 Board has requested that the transcript from this  
24 proceeding be expedited.

1 Are there any questions about today's  
2 procedures?

3 Okay. Mr. Mraz, how would you like your  
4 witnesses sworn in, one at a time or altogether?

5 MR. MRAZ: Altogether, please.

6 HEARING OFFICER KRUSE: Would the court  
7 reporter please swear in the witnesses.

8 (The witnesses were duly sworn.)

9 HEARING OFFICER KRUSE: Okay. Thank you.

10 As I understand it, there may not be a  
11 formal opening statement by the IEPA today, but  
12 there are at least a few matters of business for  
13 them to take care of.

14 And Mr. Mraz, this is your opportunity to  
15 do so.

16 MR. MRAZ: The post-hearing comments, as  
17 you'll recall, submitted by IEPA consisted of three  
18 parts. The first part included changes to the  
19 original amendments to Part 848 that were filed  
20 with the Board. The second part were answers to  
21 questions from the board and from JCAR. Third --  
22 actually, there were four parts. I'm sorry. We  
23 changed it.

24 The third part was some clarifications on

1 comments made at the March 5th hearing. And then  
2 the fourth part were forms requested by the Board  
3 that the Agency would use for the Used Tire Regs  
4 and the amendments to Part 848.

5 The two exhibits that we have, when we  
6 submitted the general application permit form,  
7 which was attached as part of Exhibit A to Part 4  
8 in the Agency's post-hearing comments, we had  
9 handwritten changes on the first page on the permit  
10 form, so I just have a proposed Exhibit 6 that I'd  
11 like introduced into the record, and that simply  
12 took the handwritten changes that were part of the  
13 post-hearing comments, and it's just a clean copy.  
14 So it's no different than what -- were a part that  
15 was part of the post-hearing comments, only it's a  
16 clean copy.

17 So if we could introduce this into the  
18 record as Exhibit 6.

19 HEARING OFFICER KRUSE: Is there any objection  
20 to entering Exhibit 6 into the record?

21 (Short pause.)

22 HEARING OFFICER KRUSE: Seeing none, we will  
23 enter it into the record, and Exhibit 6 will be the  
24 general application for permit and the form number



1 under that is LPC-9A1.

2 MR. MRAZ: And then we have proposed  
3 Exhibit 7. The trust agreement, again, was part of  
4 Exhibit A that was -- went along with Part 4 of the  
5 Agency's post-hearing comments, which again, were  
6 the type -- were the few forms that the Agency  
7 proposes to use as part of 848. And there were  
8 some changes to the language in the trust agreement  
9 prepared by Mr. White.

10 And Mr. White, there were no changes to  
11 the other forms?

12 MR. WHITE: There were slight changes, also,  
13 to the bond and letter of credit, too.

14 MR. MRAZ: Okay. Then I have those documents  
15 that were prepared by Mr. White, which I have as  
16 Exhibit 7, and I will ask they be introduced into  
17 the record. And then I will have Mr. White explain  
18 what the changes were to the documents.

19 And again, these were the forms that the  
20 Agency will use. It's technically not part of the  
21 rulemaking in terms of the changes to Part 848, but  
22 rather, it's in response to the Board's request  
23 that the Agency provide copies of the forms to be  
24 used.

1 MS. ZALEWSKI: But you don't have a redline  
2 version; you're just going to speak to what the  
3 differences are?

4 MR. MRAZ: Did you have the redline, Brian?

5 MR. WHITE: No, I did not do the redline. I  
6 did do strikeouts and underlines for additions.

7 MR. MRAZ: Okay. That is redline.

8 MS. ZALEWSKI: Okay. And it sounds like you  
9 were going to speak to the differences.

10 MR. WHITE: Yes.

11 MS. ZALEWSKI: Okay.

12 MR. WHITE: Larry has got a copy, my extra  
13 copy.

14 MR. KRUSE: Is there any objection to  
15 entering a number of forms here -- there's the  
16 trust agreement, the surety bond guaranteeing  
17 payment form, then instructions for completing  
18 surety bonds guaranteeing payment, irrevocable  
19 standby letter of credit, and instructions for  
20 completing and submitting irrevocable standby  
21 letter of credit forms -- as Exhibit 7?

22 (Short pause.)

23 HEARING OFFICER KRUSE: Seeing no objections,  
24 they will be entered as Exhibit 7 to this

1 proceeding. In both of those -- are those all the  
2 forms you have --

3 MR. MRAZ: Those are --

4 HEARING OFFICER KRUSE: -- as an exhibit?

5 MR. MRAZ: There were other forms that were  
6 included in the post-hearing comments. Those are  
7 the ones that we had changes to, so the permit --

8 MR. WHITE: Yes.

9 MR. MRAZ: -- application.

10 And those are the financial assurance  
11 forms, but there were other forms that would be  
12 used for Part 848, such as the daily tire record  
13 and the annual reports. So those didn't have any  
14 changes to them.

15 HEARING OFFICER KRUSE: Okay. Both exhibits  
16 will be entered into the record as if read today.

17 (Exhibit Nos. 6 and 7 were admitted  
18 into evidence.)

19 HEARING OFFICER KRUSE: Would Mr. White like  
20 to explain the changes to the documents at this  
21 time?

22 MR. MRAZ: Yes, please.

23 MR. WHITE: Sure. The changes are all minor  
24 on the trust agreement. In the second line, it was

1 just the inclusion of "a/an" to -- before the name  
2 of the state to -- in case any states are  
3 pronounced with a vowel to begin with, a vowel  
4 sound.

5 In section 6, it said, "Trust Management"  
6 for the title of that. It should be "Trustee  
7 Management."

8 In 6(a), there was a strikeout because of  
9 a redundancy for the section of the Investment  
10 Company Act of 1940.

11 In section 9, just included something that  
12 was left out. It's part of a sentence. It says,  
13 "in connection with the administration of this  
14 Trust, including fees for legal services rendered  
15 to the Trustee, the compensation of the Trustee."  
16 It's talking about taxes and expenses that are  
17 under the fund.

18 In section 17, the word "Director" was  
19 inserted after "Illinois EPA." It was  
20 inadvertently left out the second time they talk  
21 about it. So it says, "by the Trustee or the  
22 Illinois EPA Director, if the Grantor ceases to  
23 exist."

24 And actually, at the end, even though it's

1 not underlined, the part where it says -- a "were"  
2 was changed to "was."

3 MR. MRAZ: Which section?

4 MR. WHITE: It's after section 20, right at  
5 the end just before the signatures. The very last  
6 line, it says, "The parties below certify that the  
7 wording of this Agreement" -- it used to say, "were  
8 not." It's "was not." It's changed -- "modified  
9 or altered in anyway other than intended to  
10 complete" -- and "were completed" was there, so  
11 that was changed to "complete the Agreement."

12 On the surety bond, before "EPA ID No.,"  
13 "Illinois" was inserted to indicate it's the  
14 Illinois EPA ID number in two spots.

15 And on page 3, we used the hazardous waste  
16 as a model here, so left -- the term "closure" or  
17 "post-closure removal" or "post-closure" was in  
18 there. It was -- it's a strike out there and add  
19 "removal amount" because in tires, we talk about  
20 removal amounts instead of closure or post-closure  
21 material.

22 And then we added the last part, just  
23 before this, that -- basically, it's a  
24 certification that they haven't changed anything

1 from the online form.

2 And in the instructions to the bond,  
3 "Illinois" -- in No. 4 -- was added just before  
4 "EPA" to indicate it's the Illinois EPA ID number.

5 The standby letter of credit, the only  
6 thing that was added was the -- on page 2, just  
7 before the signature, was the certification that  
8 things weren't changed.

9 That's it.

10 MR. MRAZ: So I would just -- that's already  
11 been introduced into the record though.

12 HEARING OFFICER KRUSE: Okay. So now we will  
13 move on to questions about the rulemaking. First,  
14 do any board members have questions for the Agency  
15 about the rulemaking today?

16 (Short pause.)

17 HEARING OFFICER KRUSE: Do any members of the  
18 public present today have questions for the Agency  
19 about the rulemaking?

20 (Short pause.)

21 HEARING OFFICER KRUSE: Seeing none, I do have  
22 some questions regarding the language and format of  
23 the rulemaking after considering the Illinois EPA's  
24 post-hearing comments. So I will ask those at this

1 time. These, again, are just boring language and  
2 format changes or questions that I have.

3 Generally, the Board has found instances  
4 where the Agency's post-hearing comments are not  
5 consistent with the version of the rulemaking  
6 published in the Illinois Register. These  
7 inconsistencies will be addressed in the Board's  
8 second-notice opinion and order. Some of the  
9 inconsistencies were addressed in the JCAR  
10 questions to the Agency and the Agency's  
11 post-hearing comments. However without providing  
12 specific examples, the Board asks that the Agency  
13 comment on any inconsistencies not addressed in the  
14 post-hearing comments that may have an effect on  
15 the meaning of the rule.

16 And that's obviously not something that  
17 the Agency can do on the spot today.

18 Next question is on Section 848.101(h).  
19 And the Agency, in its post-hearing comments,  
20 explains the rationale for using the term  
21 "reserved" to preserve the format of the rule.  
22 However, subsection (h) of 848.101 is proposed to  
23 be reserved but it's all new language. So in the  
24 instance of this subsection, I wondered if it

1 should instead be eliminated and subsection (i) --  
2 the text of subsection (i) would be moved into that  
3 spot, and subsection (i) would then...

4 MR. MRAZ: Become subsection (h) if the Agency  
5 wouldn't have an issue with that.

6 HEARING OFFICER KRUSE: Okay.

7 MR. MRAZ: Of course, it's the Board rules.

8 HEARING OFFICER KRUSE: Yes.

9 Next question is Section 848.201(a). Does  
10 the Agency propose retaining the (a) that denotes a  
11 subsection here, even though the remainder of  
12 subsection -- of Section 848.201 is to be stricken  
13 so that subsection (a) would be the only subsection  
14 in this?

15 MR. O'LEARY: I think what you said there was  
16 841.101, and it's 201. Or did I mishear that?

17 HEARING OFFICER KRUSE: I'm sorry. Can you  
18 repeat that?

19 MR. O'LEARY: I thought you said it was  
20 841.101. It's 201?

21 MR. MRAZ: It's all 848.

22 HEARING OFFICER KRUSE: Oh, I'm sorry. Yes.  
23 So I must have misspoke. Yeah, we're only going  
24 with Part 848.



1 So the second question is on 848.201(a),  
2 it seems to me that the --

3 MR. MRAZ: The remainder of the section is  
4 stricken so that's the only paragraph left, is what  
5 we have identified as subparagraph (a).

6 HEARING OFFICER KRUSE: Correct.

7 MR. MRAZ: So it could just become section  
8 848.201 --

9 HEARING OFFICER KRUSE: Right.

10 MR. MRAZ: -- without having the  
11 subparagraph (a) reference.

12 HEARING OFFICER KRUSE: That's exactly my  
13 question.

14 MR. MRAZ: Yes.

15 HEARING OFFICER KRUSE: The next question is  
16 on Section 848.400(c). Should this subsection  
17 reflect the changes proposed in post-hearing  
18 comments for subsection (b) of this section? That  
19 is, should the word "any" be inserted and the term  
20 "sites" be changed to the singular "site"?

21 MR. MRAZ: I'm sorry. Which section again?

22 HEARING OFFICER KRUSE: That's 848.400(c).

23 MR. MRAZ: Subsection (c)?

24 (Short pause.)

1 MR. MRAZ: And which subparagraph was that?

2 HEARING OFFICER KRUSE: The question --

3 MR. MRAZ: 400. Which subparagraph?

4 HEARING OFFICER KRUSE: C.

5 MR. MRAZ: Oh, so that's --

6 HEARING OFFICER KRUSE: Just making B  
7 and C agree with it. You proposed changes to  
8 subsection (b), including making the plural "sites"  
9 singular and inserting "any," and so the question  
10 is whether C should be made consistent with those  
11 changes.

12 MR. MRAZ: B and C should be consistent in  
13 terms of the singular versus the plural. I think  
14 we've -- in most of our post-hearing comments, we  
15 had made that any tire storage site, singular, so I  
16 believe B still is the plural, so I would propose  
17 that B would become the singular.

18 Did you have a preference in your --

19 HEARING OFFICER KRUSE: I think B you did make  
20 the correction, but C is the...

21 MR. MRAZ: Oh, I'm sorry. I was looking at  
22 the original proposed rulemaking.

23 HEARING OFFICER KRUSE: Sure.

24 MR. MRAZ: 848.400(b), in our post-hearing

1 comments, we made it -- which changed it from  
2 plural to singular, so now it's "any tire storage  
3 site" were the changes there. And then  
4 848.400(c)(4) --

5 HEARING OFFICER KRUSE: So just the intro, so  
6 848.400(c), that opening part before 1 through --

7 MR. MRAZ: Yeah, then that would be --

8 HEARING OFFICER KRUSE: -- 7.

9 MR. MRAZ: That would be "owners and operators  
10 of any tire storage site," singular.

11 Yeah, that would make it consistent.

12 HEARING OFFICER KRUSE: Fantastic.

13 MR. MRAZ: Sorry about that.

14 HEARING OFFICER KRUSE: That's okay.

15 The next question is Section 848.404(a).  
16 The Agency has proposed using both "must" and  
17 "shall" in the rulemaking. In subsection  
18 848.404(a), the Agency proposes using both terms.  
19 Should the use -- should the use of "shall" in that  
20 subsection be replaced with "must"?

21 MR. MRAZ: That's 848.404 --

22 HEARING OFFICER KRUSE: A.

23 MR. MRAZ: -- subparagraph (a)?

24 HEARING OFFICER KRUSE: Yes. And again, you

1 could respond in the post-hearing comments.

2 MR. MRAZ: So then in the fourth line of  
3 subparagraph (a), change the "shall" to "must"?

4 HEARING OFFICER KRUSE: That's the instance I  
5 was speaking of, yes.

6 MR. MRAZ: Yes. That would make it  
7 consistent.

8 HEARING OFFICER KRUSE: Okay. That concludes  
9 my questions for the Agency.

10 Before we proceed, does anyone else have  
11 questions for the Agency at this point?

12 (Short pause.)

13 HEARING OFFICER KRUSE: Seeing none --

14 MR. MARVEL: I have a -- I don't know if this  
15 is against protocol, but I forgot to -- and I  
16 apologize, Larry, for mentioning it to you.

17 I did find an apparent typo when I was  
18 looking at this earlier. Is that something I  
19 should --

20 MR. MRAZ: Yes, you can raise that now.

21 MR. MARVEL: But in 848.606, in the third  
22 line, "vehicles" should be singular, 606(a).

23 MR. MRAZ: It is. You can't read it. That  
24 should be a strikeout on the "S."

1 MR. MARVEL: I apologize. I didn't see this.  
2 I couldn't tell it was a strikeout. My bad.

3 MR. MRAZ: It's supposed to be.

4 HEARING OFFICER KRUSE: Those aren't easy to  
5 see.

6 MR. MRAZ: Electronic filing. I have copies  
7 here. Yeah. It is stricken.

8 MR. MARVEL: Okay.

9 MR. MRAZ: It's just hard to read on the  
10 electronic filing.

11 MR. MARVEL: Okay. Never mind.

12 HEARING OFFICER KRUSE: Okay. Seeing no other  
13 questions, I will go through a few procedural  
14 issues before we adjourn.

15 Section 27(b) of the Act provides that the  
16 Board must request that the Department of Commerce  
17 and Economic Opportunity (or DCEO) conduct an  
18 economic impact study of the proposed rules before  
19 the Board adopts the rules. In this case, the  
20 Board requested an economic impact study of  
21 DCEO on January 20th, 2015. In a letter dated  
22 January 27th, 2015, DCEO declined the request to  
23 conduct an economic impact study.

24 Would anyone present like to testify with

1 regard to the Board's request for an economic  
2 impact study or DCEO's decision not to conduct an  
3 economic impact study?

4 Yes, sir?

5 MR. HUIZINGA: Just along the line --

6 HEARING OFFICER KRUSE: Could you please state  
7 your name for the record?

8 MR. HUIZINGA: My name is Jim Huizinga. I'm  
9 in the business as a tire recycling site.

10 And as far as DCEO is concerned, if they  
11 were to do an answer to your question, do you have  
12 any idea how they would do it? Would they take  
13 those that are in the industry and come up with a  
14 questionnaire in order to answer your question as  
15 to how that would impact the constituents that  
16 would be affected by that bill? How would they do  
17 that? How would DCEO do this with the parties that  
18 are involved that will feel the effects of this?

19 HEARING OFFICER KRUSE: The request is one  
20 that we are required to make of DCEO.

21 MR. HUIZINGA: Which makes sense.

22 HEARING OFFICER KRUSE: The Board does not  
23 often receive responses to that request.

24 MR. HUIZINGA: And the reason would be?

1 HEARING OFFICER KRUSE: In the letter we  
2 received in January -- I'm not going to be able to  
3 quote it directly, but they said they are simply  
4 unable to conduct the study and did not provide a  
5 sub -- any substantial reason for that. I'm not  
6 able to speak --

7 MR. HUIZINGA: I understand.

8 HEARING OFFICER KRUSE: -- about what they  
9 would do to conduct such a study, though I will  
10 note for the record that we have a request from the  
11 Joint Commission on Legislative Affairs to -- I'm  
12 sorry -- JCAR to fill out a form that they supplied  
13 us on the economic impact of the rule, which we  
14 will do and we must submit it to them before we go  
15 to second notice with the rule.

16 MR. HUIZINGA: I don't know why DCEO cannot  
17 address that question when I think that since every  
18 registered site is part of the record in compliance  
19 with the current EPA state, that they would be able  
20 to send out some kind of questionnaire to be able  
21 to answer your question. There's not that many in  
22 the state to respond to that, and I'm sure most of  
23 them would like to have a voice in answering the  
24 question to give you the answer to your question.

1 There's not that many that -- and they all will be  
2 impacted by the outcome of the changes.

3 HEARING OFFICER KRUSE: Sure.

4 MR. RAO: Chad?

5 HEARING OFFICER KRUSE: Yes, sir?

6 MR. RAO: May I say something?

7 HEARING OFFICER KRUSE: Yes. Mr. Rao from the  
8 Board.

9 MR. RAO: While DCEO has not done an economic  
10 impact study, the Board would be happy to receive  
11 any comments about economic impact of the proposed  
12 rules. You can submit comments to the Board, and  
13 the Board will take a look at, you know, any  
14 information that you provide to the Board, even  
15 though DCEO may not do the economic impact study  
16 plan.

17 HEARING OFFICER KRUSE: And those comments  
18 would be made part of the record --

19 MR. RAO: Yes.

20 HEARING OFFICER KRUSE: -- in this rulemaking.

21 MR. KEENAN: Question.

22 HEARING OFFICER KRUSE: Member Keenan?

23 MR. KEENAN: Is the request from JCAR  
24 something which is in the record or which can be



1 made available --

2 HEARING OFFICER KRUSE: Yes, sir.

3 MR. KEENAN: -- to them? So if you wanted,  
4 that way, you can see what JCAR is asking.

5 MR. HUIZINGA: Okay.

6 HEARING OFFICER KRUSE: And it's a basic form.  
7 It is addressed to the Board, but if your -- if  
8 your comments would address a call on that form, we  
9 would certainly take those into account in filling  
10 out the form. And again, we will have an open  
11 comment -- open public comment period following  
12 this hearing, and that will close prior to us going  
13 to second notice. But we also must submit the form  
14 to JCAR before we go to second notice with the  
15 rulemaking.

16 MR. HUIZINGA: Thank you.

17 HEARING OFFICER KRUSE: Would anyone else like  
18 to speak on the economic impact study or DCEO's...

19 MR. MRAZ: I would simply comment that in the  
20 post-hearing comments and what was discussed at the  
21 March hearing was that proposed rules, the  
22 amendments to Part 848 were based on what's  
23 industry practice, so based on our expert  
24 witnesses, the expectations were that this

1 shouldn't have any significant costs on -- the  
2 proposed amendment shouldn't have a significant  
3 cost increase since they're based on what is  
4 currently industry standard.

5 HEARING OFFICER KRUSE: Okay. At this time,  
6 before concluding today's hearing, I would just  
7 like to reiterate that anyone may file written  
8 public comments in this rulemaking with the clerk  
9 of the Board. The Board will hold an open -- will  
10 hold open a post-hearing comment period until at  
11 least Friday, May 1, 2015. The closing date of the  
12 post-hearing comment period will be set by hearing  
13 officer order upon receipt of today's hearing  
14 transcript.

15 The mailbox rule at Section 101.300(b) of  
16 the Board's procedural rules does not apply to the  
17 filing of any post-hearing comments. Therefore,  
18 those comments must be received in the Board's  
19 clerk's office by the close of business on the day  
20 the comment period closes.

21 Filings may be made through the Board's  
22 clerk's office online. Any questions about  
23 electronic filing should be directed to the clerk's  
24 office at (312) 814-3620. Filings with the Board,

1 whether paper or electronic, must also be served on  
2 the hearing officer and on those persons on the  
3 service list. Therefore, before filing, please  
4 check the Board's website or with the clerk's  
5 office to ensure that you have the most recent  
6 version of the service list.

7 As mentioned earlier, Section 55.2 of the  
8 Act mandates that the Agency propose and the Board  
9 adopt revisions to Part 848 within 15 months of the  
10 effective date of the amendment. The amendments  
11 became effective on June 19, 2014, and the Agency  
12 submitted the rulemaking proposal to the Board on  
13 December 22nd, 2014. Therefore, the Board must  
14 adopt the final rules at or before the Board  
15 meeting scheduled for Thursday, September 17th,  
16 2015.

17 Expedited copies of the transcript of  
18 today's hearing should be available at the Board's  
19 office by Monday, April -- what is Monday? Do you  
20 have -- the 20th. So copies of the transcript  
21 physically should be available in the Board's  
22 office by the close of business Monday, April 20th,  
23 and shortly after that, the transcript will be made  
24 available on the Board's website.

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If anyone has any questions about the procedural aspects of this rulemaking, please contact me by telephone at (312) 814-3665 or e-mail at chad.kruse@illinois.gov.

Are there any other matters that need to be addressed at this time?

Seeing none, I would like to thank everyone for participating today. And this hearing is adjourned.

(The proceedings adjourned at 1:33 p.m.)

1 STATE OF ILLINOIS )

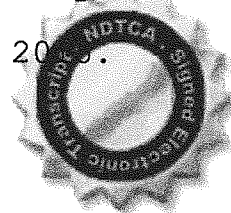
2 ) SS:

3 COUNTY OF C O O K )

4 I, Mary T. Murphy McGuirk, a Certified  
 5 Shorthand Reporter of the State of Illinois, do hereby  
 6 certify that I reported in shorthand the proceedings had  
 7 at the hearing aforesaid, and that the foregoing is a  
 8 true, complete, and correct transcript of the  
 9 proceedings of said hearing as appears from my  
 10 stenographic notes so taken and transcribed under my  
 11 personal direction.

12 IN WITNESS WHEREOF, I do hereunto set my hand  
 13 at Chicago, Illinois, this 19th day of April, 2015.

14 *Mary T. Murphy-McGuirk*



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 18 Mary T. Murphy McGuirk  
 19 Certified Shorthand Reporter  
 20 CSR Certificate No. 84-4160

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<b>A</b>				
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Bureau of Land • 1021 North Grand Avenue East • P.O. Box 19276 • Springfield • Illinois • 62794-9276

## General Application for Permit (LPC - PA1)

This form must be used for any application for permit from the Bureau of Land, except for landscape waste composting or hazardous waste management facilities regulated in accordance with RCRA, Subtitle C. One original, and two copies, or three if applicable, of all permit application forms must be submitted. Attach the original and appropriate number of copies of any necessary plans, specifications, reports, etc. to fully support and describe the activities and modifications being proposed. Attach sufficient information to demonstrate the compliance with all regulatory requirements. Incomplete applications will be rejected. Please refer to the instructions for further guidance. **Note: Applicants must provide a physical address; the post office will not deliver a certified letter (final action letter) to a P.O. Box only. Please provide an extended ZIP+4 code for the site identification and owner/operator information.**

You may complete this form online, save a copy locally, print, sign and submit it to the Bureau of Land at the address below. Note: Hand-delivered permit applications must be delivered between 8:30 am and 5:00 pm, Monday through Friday (excluding State holidays) to:

Bureau of Land, Permit Section, Mail Code #33  
1021 North Grand Avenue East, P.O. Box 19276  
Springfield, IL 62794-9276

### I. Site Identification:

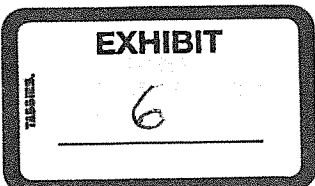
Site Name: \_\_\_\_\_ IEPA BOL No.: \_\_\_\_\_  
 Street Address: \_\_\_\_\_ P.O. Box: \_\_\_\_\_  
 City: \_\_\_\_\_ State: IL Zip + 4:\* \_\_\_\_\_ \*Notification letters will not be sent without a 9-digit zip code. County: \_\_\_\_\_  
 Existing DE/OP Permit Numbers (if applicable): \_\_\_\_\_

### II. Applicant Identification:

Owner	Operator (if Different)
Name: _____	Name: _____
Street Address: _____	Street Address: _____
PO Box: _____	PO Box: _____
City: _____ State: _____	City: _____ State: _____
Zip + 4: _____ Phone: _____	Zip + 4: _____ Phone: _____
Contact: _____	Contact: _____
Email Address: _____	Email Address: _____
FEIN ID No. _____	FEIN ID No. _____

Agency correspondence mailed to: Owner  Operator  Other - Explain

<u>TYPE OF SUBMISSION/REVIEW PERIOD:</u>	<u>TYPE OF FACILITY:</u>	<u>TYPE OF WASTE:</u>
<input type="checkbox"/> New Landfill/180 days (35 IAC Part 813)	<input type="checkbox"/> Landfill	<input type="checkbox"/> General Municipal Refuse
<input type="checkbox"/> Landfill Expansion/180 days (35 IAC Part 813)	<input type="checkbox"/> Land Treatment	<input type="checkbox"/> Hazardous
<input type="checkbox"/> Sig. Mod. to Operate/90 days (35 IAC Part 813)	<input type="checkbox"/> Transfer Station	<input type="checkbox"/> Special (Non-Hazardous)
<input type="checkbox"/> Other Sig. Mod./90 days (35 IAC Part 813)	<input type="checkbox"/> Treatment Facility	<input type="checkbox"/> Chemical Only (exec. putrescible)
<input type="checkbox"/> Renewal of Landfill/90 days (35 IAC Part 813)	<input type="checkbox"/> Storage	<input type="checkbox"/> Inert Only (exec. chem. & putrescible)
<input type="checkbox"/> Development/90 days (35 IAC Part 807)	<input type="checkbox"/> Incinerator	<input type="checkbox"/> Used Oil
<input type="checkbox"/> Operating/45 days (35 IAC Part 807)	<input type="checkbox"/> Composting	<input type="checkbox"/> Potentially Infectious Medical Waste
<input type="checkbox"/> Operating/90 days (35 IAC Part 848)	<input type="checkbox"/> Recycling/Reclamation	<input type="checkbox"/> Landscape/Yard Waste
<input type="checkbox"/> Supplemental/90 days (35 IAC Part 807)	<input type="checkbox"/> Used Tire Storage/Processing Facility	<input type="checkbox"/> Used Tires
<input type="checkbox"/> Permit Transfer/90 days (35 IAC Part 807)	<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Other (Specify) _____
<input type="checkbox"/> Renewal of Experimental Permit (35 IAC Part 807)	_____	_____
	_____	_____
	_____	_____



This Agency is authorized to require this information under Section 4 and Title X of the Environmental Protection Act (415 ILCS 5/4, 5/39). Failure to disclose this information may result in: a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues (415 ILCS 5/42). This form has been approved by the Forms Management Center.

**V. Signatures:**

Original signatures are required. Signature stamps or applications transmitted electronically or by FAX are not acceptable.

All applications shall be signed by the person designated below as a duly authorized representative of the owner an/or operator. A printed name for each signature should also be provided.

- Corporation - By a principal executive officer of the level of vice-president or above.
- Partnership or Sole Proprietorship - By a general partner or the proprietor, respectively.
- Government - By either a principal executive officer or a ranking elected official.

A person is a duly authorized representative of the owner and operator only if:

1. They meet the criteria above or the authorization has been granted in writing by a person described above; and
2. Is submitted with this application (a copy of a previously submitted authorization can be used).

I hereby affirm that all information contained in this application is true and accurate to the best of my knowledge and belief. I do herein swear that I am a duly authorized representative of the owner/operator and I am authorized to sign this permit application form.

**Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Illinois EPA commits a Class 4 felony. A second or subsequent offense after conviction is a Class 3 felony. (415 ILCS 5/44(h))**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notary: Subscribed and Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

My commission expires on: \_\_\_\_\_

\_\_\_\_\_  
Signature & Stamp/Seal of Notary Public

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
Operator Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notary: Subscribed and Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

My commission expires on: \_\_\_\_\_

\_\_\_\_\_  
Signature & Stamp/Seal of Notary Public

Licensed Professional Engineer's Name: \_\_\_\_\_

Licensed Professional Engineer's Title: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Company: \_\_\_\_\_

Street Address: \_\_\_\_\_ PO Box: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip + 4: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

Licensed Professional Engineer's Seal

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**View Case Details**

GENERAL INFORMATION			
<b>Case No:</b>	R2015-019	<b>Case Name:</b>	In the Matter of: Management of Used and Waste Tires: Proposed Amendments to 35 Ill. Adm. Code 848
<b>Case Type:</b>	Rulemaking	<b>Board Member:</b>	Zalewski, C. K.
<b>Media Type:</b>	Land	<b>Hearing Officer:</b>	Kruse, C
<b>County:</b>	Statewide	<b>Status:</b>	Board Order

[Notify Me when this case is updated](#)  
[Printer Friendly Page](#)

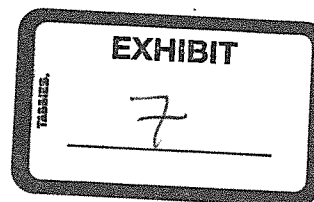
- Clerk's Office**  
 Calendar of Events  
 Clerk's Office On-Line (COOL)  
 Complaint Forms  
 COOL Browser Check  
 Electronic Filing Requirements  
 Hearing Costs  
 Meeting Minutes  
 Staff Directory

**Case Activity**

Date	Activity Type	Activity Notes	View File
3/31/2015	Other	Post hearing comments of the Illinois Environmental Protection Agency	
3/17/2015	Other	*Stakeholder Outreach List	<a href="#">View File</a>
3/12/2015	Other	Certificate of publication; published on February 6, 2015 in the Chicago Sun Times	<a href="#">View File</a>
3/11/2015	Exhibit Submitted	Exhibit 2 from hearing of March 5, 2015	<a href="#">View File</a>
3/11/2015	Exhibit Submitted	Exhibit 1 from hearing of March 5, 2015	<a href="#">View File</a>
3/11/2015	Exhibit List	List of exhibits from hearing of March 5, 2015	<a href="#">View File</a>
3/10/2015	Transcript	Transcript of March 5, 2015 hearing	<a href="#">View File</a>
3/5/2015	Other	Certificate of publication; published on February 7, 2015 in the State Journal Register	<a href="#">View File</a>
3/4/2015	JCAR	*JCAR Request for Analysis of Economic and Budgetary Effects of this Rulemaking	<a href="#">View File</a>
2/26/2015	Hearing Officer Order/Correspondence	*Hearing Officer Order: First hearing deadline of February 19, 2015 for pre-filing testimony and February 26, 2015 for pre-filing questions; Agency prefiled testimony of Terry Gray, Todd Marvel, and Brian White; Board directs Agency to prepare responses to questions for first hearing on March 5, 2015	<a href="#">View File</a>
2/18/2015	Prefiled Testimony	Pre-filed Testimony of Terry Gray and Todd Marvel, and Brian White (electronic filing)	<a href="#">View File</a>
2/9/2015	Hearing Officer Order/Correspondence	*Notice of Hearings: Hearing scheduled for March 5, 2015, at 1:00 pm at Illinois EPA, Sangamo Conf. Rm., 1021 North Grand Avenue East, Springfield, IL AND April 15, 2015, at 1:00 pm at Pollution Control Board Hearing Room, Suite 11-512, 100 West Randolph Street, Chicago, IL ***** *Hearing Officer Order: Agency intends to present testimony of two Agency employees and a retained expert during hearings; for first hearing, must prefile testimony and related exhibits by February 19, 2015 also,	<a href="#">View File</a>

<u>Illinois Environmental Council</u> <b>Interested Party</b>	230 Broadway Suite 150	Springfield IL 62706	
<ul style="list-style-type: none"> <li>Jennifer Walling - Executive Director</li> </ul>			
<u>Sierra Club</u> <b>Interested Party</b>	70 E. Lake Street, Suite 1500	Chicago IL 60601-7447	
<ul style="list-style-type: none"> <li>Jack Darin</li> </ul>			
<u>Illinois Department of Public Health</u> <b>Interested Party</b>	535 West Jefferson	Springfield IL 62761	
<ul style="list-style-type: none"> <li>Robert Morgan</li> </ul>			
<u>Natural Resources Defense Council</u> <b>Interested Party</b>	20 North Wacker Drive Suite 1600	Chicago IL 60606-2903	312/633-9900 312/234-9633
<ul style="list-style-type: none"> <li>Nick Magrisso</li> </ul>			
<u>Tire Industry Association</u> <b>Interested Party</b>	W1169 Stokeyk Ingelse	Oostburg WI 53070	
<ul style="list-style-type: none"> <li>Dick Gust</li> </ul>			
<u>Rubber Manufacturers Association</u> <b>Interested Party</b>	1400 K Street, NW	Washington DC 20005	202-682-4838
<ul style="list-style-type: none"> <li>John Sheerin - Director, End of Life Tire Program</li> </ul>			
<u>Recycling Research Institute</u> <b>Interested Party</b>	215 Davis Ave SW P.O. Box 4430	Leesburg VA 20177	703-622-1733
<ul style="list-style-type: none"> <li>Mary Sikora</li> </ul>			
<u>Illinois Manufacturer's Association</u> <b>Interested Party</b>	220 E. Adams Street	Springfield IL 62701	217-522-1240
<ul style="list-style-type: none"> <li>Jerry Peck</li> </ul>			
<u>Illinois Retail Merchants Association</u> <b>Interested Party</b>	19 S. LaSalle Street Suite 300	Chicago IL 60603	312-726-4600
<ul style="list-style-type: none"> <li>Tanya Triche</li> </ul>			
<u>CDO Trucking, Inc.</u> <b>Interested Party</b>	2618 W. Moss Ave.	Peoria IL 61604	309-696-8027
<ul style="list-style-type: none"> <li>Chris Ohl</li> </ul>			
<u>DisposALL Waste Services, LLC</u> <b>Interested Party</b>	5817 W. Ogden Ave.	Cicero IL 60804	708-458-9800
<ul style="list-style-type: none"> <li>Rich Grad</li> </ul>			
<u>RCRA Inc., d/b/a Earth Services</u> <b>Interested Party</b>	10903 Prestwick	Benton IL 62812	618-218-4958
<ul style="list-style-type: none"> <li>Josh Appleton</li> </ul>			
<u>Morton Supplies, Inc.</u> <b>Interested Party</b>	1310 W Birchwood	Morton IL 61550	309-266-7173

## TRUST AGREEMENT



Trust Fund Number \_\_\_\_\_

Trust Agreement, the "Agreement," entered into as of the [day of month] day of [month and year], by and between [name of the owner or operator], a/an [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of \_\_\_\_\_" or "a national bank"], the "Trustee."

Whereas, the Illinois Pollution Control Board (IPCB), has established certain regulations applicable to the Grantor, requiring that an owner or operator of a used or waste tire storage or disposal site provide assurance that funds will be available when needed for removal of used and waste tires from the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this Agreement, and/or to serve as a standby trust fund.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee.

Whereas, Trustee is an entity which has authority to act as a Trustee and whose trust operations are regulated by a state or federal agency.

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates. This Agreement pertains to the sites and cost estimates identified on attached Schedule A [on Schedule A, list the name and address, and the current cost estimate, or portions thereof, of each site for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Illinois EPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this Agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B to this Agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings

to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;
- (b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this Agreement;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the Illinois EPA, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during the period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the Illinois EPA Director, or by the Trustee and the Illinois EPA Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the Illinois EPA Director, or by the Trustee and the Illinois EPA Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Illinois EPA Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement was not modified or altered in anyway other than as intended to complete the Agreement.

Attest: Signature of  
Grantor \_\_\_\_\_

Typed Name \_\_\_\_\_

Title \_\_\_\_\_

**SURETY BOND GUARANTEEING PAYMENT**

Date bond executed: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal: \_\_\_\_\_

(1)

Type of Organization: \_\_\_\_\_

(2)

State of incorporation: \_\_\_\_\_

Surety(ies): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3)

Removal Amount \_\_\_\_\_

Illinois EPA I.D. No. \_\_\_\_\_

(4)

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Illinois EPA I.D. No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Please attach a separate page if more space is needed for all facilities.

Total penal sum of bond: \$ \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Illinois Environmental Protection Agency (hereinafter called Illinois EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Illinois EPA Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Illinois EPA Director, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Illinois EPA Director.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new ~~closure and/or post-closure~~ removal amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Illinois EPA Director.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond was not altered or modified in any way other than as intended to complete the surety bond.

Principal Signature(s) \_\_\_\_\_  
Name(s) \_\_\_\_\_  
Title(s) \_\_\_\_\_  
Corporate seal

Corporate Surety(ies)  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
State of incorporation: \_\_\_\_\_  
Liability limit: \$ \_\_\_\_\_  
Signature(s) \_\_\_\_\_  
Name(s) \_\_\_\_\_  
Title(s) \_\_\_\_\_

Corporate seal

Co-surety(ies)  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
State of incorporation: \_\_\_\_\_  
Liability limit: \$ \_\_\_\_\_

**Instructions for completing  
Surety Bonds Guaranteeing Payment**

1. Legal name and business address of owner or operator
2. Insert "individual," "joint venture," "partnership," or "corporation"
3. Name(s) and business address(es)
4. Illinois EPA Identification Number, name, address and removal amount(s) for each facility guaranteed by this bond [indicate removal amounts separately]



## IRREVOCABLE STANDBY LETTER OF CREDIT

Director  
Illinois Environmental Protection Agency  
C/O Bureau of Land #24  
Financial Assurance Program  
1021 North Grand Ave East  
Post Office Box 19276  
Springfield, IL 62794-9276

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_

in your favor, at the request and for the account of \_\_\_\_\_ up to the  
aggregate amount of \_\_\_\_\_ U.S. dollars \$ \_\_\_\_\_, available  
(1)  
(2)  
upon presentation of:

(1) your sight draft, bearing reference to this letter of credit No. \_\_\_\_\_; and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act, 415 ILCS 5/1 et seq. as amended."

This letter of credit is effective as of \_\_\_\_\_ and shall expire on \_\_\_\_\_,  
(3)

but such expiration date shall be automatically extended for a period of \_\_\_\_\_ on  
(4)

\_\_\_\_\_ and on each successive expiration date, unless, at least 120 days before the  
(5)  
current expiration date, we notify both you and \_\_\_\_\_ by certified mail  
(6)

that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and \_\_\_\_\_, as shown on the signed return receipts.  
(7)

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of \_\_\_\_\_ in

**Instructions for completing and submitting  
Irrevocable Standby Letter of Credit**

1. Owner's or Operator's name and address
2. In words
3. Date at least 1 year later
4. At least 1 year
5. Date
6. Owner's or operator's name
7. Owner's or operator's name
8. Owner's or operator's name
9. Insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"

10. Please submit the following:

a completed, signed original of the letter of credit;

in addition to the letter of credit, include a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and also include the following information: the Illinois EPA identification number, name and address of the facility being covered by the letter of credit, and the amount of funds assured for removal costs of the facility by the letter of credit (See 35 Ill. Adm. Code, Section 848.413(c)(2)); and

a signed original of the standby trust agreement. Please Note: Under the terms of the letter of credit, all amounts paid pursuant to a draft by the IEPA will be deposited by the issuing institution directly into the standby trust fund (See 35 Ill. Adm. Code, Section 848.413(d)).