

## Overview of Draft Regulations Prepared by Illinois EPA for Clean Construction and Demolition Debris (CCDD)

### The Rulemaking Process

#### Why are regulations needed?

On July 30, 2010, Public Act 96-1416 became law. This CCDD law requires Illinois EPA to propose rules to establish additional technical requirements for CCDD facilities; set operating standards for uncontaminated soil fill operations; and develop standards for the maximum allowable concentrations of chemical constituents in uncontaminated soil generated during construction or demolition activities and used as fill material at either type of fill site. Illinois EPA must file the proposed rules with the Illinois Pollution Control Board no later than July 30, 2011. For more information about the CCDD law, including FAQs, please go to: <http://www.epa.state.il.us/land/ccdd/index.html>

#### Who will be affected?

Owners and operators of CCDD facilities and uncontaminated soil fill operations as well as governmental entities, road builders, landscapers, and other contractors and excavators that deliver CCDD or uncontaminated soil generated from construction or demolition activities to CCDD facilities and uncontaminated soil fill operations.

#### May I comment on the draft rules or propose alternative language?

Yes. You will have many opportunities to comment, ask questions, and propose alternative language.

Between now and July 30, 2011, Illinois EPA will seek and consider input from a diverse set of stakeholder groups. You are advised to work through your respective professional organization for greater efficiency and impact. Please be assured we will listen to all concerns. Illinois EPA's goal is to craft a rule that is fair and workable while also sufficiently protective of the environment.

Here's the timeline of **informal** outreach activity by Illinois EPA:

February 17	Release the draft rule to stakeholder groups and invite comments; post the draft rule on Illinois EPA's CCDD webpage
March 11	Stakeholder comments due on the draft rule
Mid-to-late April	Release revised draft rule to stakeholder groups and invite comments; post revised draft rule on webpage
May 12	Stakeholder comments due on the revised draft rule
June 30	Finalize proposed rule for sign-off by Illinois EPA Director and the Governor's Office
July 30	File proposal with the Illinois Pollution Control Board

To meet the March 11 and May 12 stakeholder due dates, send your comments on the draft rule to [epa.ccddcomments@illinois.gov](mailto:epa.ccddcomments@illinois.gov).

The proposal to be filed by Illinois EPA in July 2011 is NOT the final regulation. July 30, 2011 marks the start of the **formal** rulemaking process, which is administered by a separate entity, the Illinois Pollution Control Board. From that point forward, all comments must be directed to the Board.

Who decides what the final regulations will look like?

The Illinois Pollution Control Board. The Board will schedule at least two hearings, one in Springfield and the other in Chicago. There will be opportunities to testify at these hearings, ask questions, and submit comments. As before, you are advised to work through your respective professional organization for greater efficiency and impact. The CCDD law requires that the Board adopt the rules no later than July 30, 2012.

How can I stay informed of the rule's progress?

Between now and July 30, 2011, Illinois EPA will coordinate its outreach through stakeholder groups. We will also post the draft rule on our website, though we are not inviting comments from individuals online.

After July 30, 2011, the proposed rule will be managed by the Illinois Pollution Control Board, and all updates and opportunities to comment will come from the Board. Shortly after the Board assigns a Docket number to the rulemaking, you will be able to visit the Board's website ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) and view a separate webpage specific to this rulemaking. Once there, you will be able to click on View File to bring up the proposed rule and all relevant documents. You may also request to be placed on the Board's Notice List or Service List by clicking on Notify Me next to the Case Activity Heading.

## How the Draft Rule is Organized

The proposed rule will amend 35 Ill. Adm. Code Part 1100 to include uncontaminated soil fill operations and set new requirements for the management of CCDD and uncontaminated soil at fill sites. Right now, the existing 35 Ill. Adm. Code Part 1100 applies to CCDD facilities only.

As drafted, the amendments to 35 Ill. Adm. Code Part 1100 are organized into seven Subparts. A brief description of each Subpart follows.

### Subpart A: General

This Subpart adds "uncontaminated soil" and "uncontaminated soil fill operations" to the applicability and contains new definitions for "commercial or industrial," "compliance point," "source site operator," "source site owner," and "zone of attenuation." The term "other excavation" has been copied out of the larger definition for "CCDD fill operation" and placed on its own for ease of use and understanding.

### Subpart B: Operating Standards for CCDD Fill Operations

This Subpart describes how CCDD facilities are to be operated and includes the new requirements for soil certifications by source site owners and operators and professional engineers.

### Subpart C: Permit Application Information for CCDD Fill Operations

This Subpart has no significant changes.

#### Subpart D: Procedural Requirements for Permitting CCDD Fill Operations

This Subpart now requires three years of groundwater monitoring that meets the Class I groundwater quality standards as a condition for terminating the CCDD facility permit.

#### Subpart E: Uncontaminated Soil Fill Operations

This new Subpart provides operating standards and requirements for uncontaminated soil fill operations, which are not issued permits by Illinois EPA. Instead, as required by the CCDD law, uncontaminated soil fill operations are required to register their fill sites with Illinois EPA. For this reason, the closure and post-closure periods for uncontaminated soil fill operations are self-implementing with no Illinois EPA oversight. The owner or operator must submit an affidavit to Illinois EPA along with a professional engineer certification that the closure and post-closure periods have complied with the regulations. All of the other operating standards – such as the load checking, soil certification, and recordkeeping requirements – mirror the requirements for CCDD facilities.

#### Subpart F: Standards for Uncontaminated Soil Used as Fill Material at Regulated Fill Operations

This new Subpart lays out the methodology for the numerical standards used to determine whether or not soil generated from construction or demolition activities is uncontaminated and may be used as fill material at CCDD facilities and uncontaminated soil fill operations.

#### Subpart G: Groundwater Monitoring

This new Subpart applies to both CCDD facilities and uncontaminated soil fill operations. The Subpart requires groundwater monitoring and establishes the procedures to be followed in the event that Class I groundwater standards are exceeded. These groundwater requirements are self-implementing.

### Key Provisions of the 35 Ill. Adm. Code Part 1100 Amendments

1. Requires source site owners and operators and professional engineers to certify that soil generated from construction or demolition activities and taken to fill operations is uncontaminated.

This requirement comes from the Interim Standards established by the CCDD law, which have been in place since July 30, 2010. The Part 1100 amendments continue the certification requirement by placing it into the operating standards for CCDD facilities and uncontaminated soil fill operations.

2. Establishes a method for determining numerical standards for uncontaminated soil.

The numerical standards for uncontaminated soil are based on the most stringent cleanup objectives established in 35 Ill. Adm. Code Part 742: The Tiered Approach to Corrective Action Objectives, called TACO.

As stipulated by the CCDD law, benzo(a)pyrene is the only carcinogenic chemical for which TACO background values may be applied in the new regulations; other carcinogenic polynuclear aromatic hydrocarbons and the chemical arsenic may not use background concentrations. Illinois EPA is proposing

that background concentrations be allowed for non-carcinogenic chemicals. Background values are based on the location of the fill site where the soil is deposited.

Illinois EPA will post a table of the numerical standards for uncontaminated soil on its website for easy reference. We are not proposing to list the numerical standards in the rule because the values will change over time as new science, such as toxicity data, becomes available. Rather, the rule describes how to determine the appropriate numerical standards from TACO. If we listed the numerical standards in the regulations, a regulatory amendment would be needed whenever the TACO cleanup objectives change.

### 3. Sets operating requirements for uncontaminated soil fill operations.

While a permit is not required for uncontaminated soil fill operations, these sites must now meet other requirements similar to those of CCDD facilities. Such requirements include maintaining operating records; performing load-checking activities; and completing procedures for closure and termination of postclosure maintenance. These requirements will help protect uncontaminated soil fill operations from receiving soil that is contaminated and help protect groundwater.

### 4. Requires groundwater monitoring at CCDD facilities and uncontaminated soil fill operations.

The CCDD law specifically called for the regulations to address groundwater protection. Although load checking and certification requirements are designed to help keep contaminants out of the fill material, Illinois EPA is proposing a groundwater monitoring system requirement as an additional protection against groundwater contamination. This is important because CCDD facilities and uncontaminated soil fill operations are unlined.

The groundwater monitoring requirements are self-implementing. This means that for CCDD facilities groundwater monitoring is not part of the facility permit, and that for both types of fill operations no documentation is required to be submitted to Illinois EPA unless groundwater contamination is detected. However, the draft rule requires that fill operations employ a professional engineer to supervise both the design of the groundwater monitoring system and the preparation of related programs, plans and reports. Self-implementing requirements such as these are already in use for on-site non-hazardous waste landfills under 35 Ill. Adm. Code Part 815.

The Part 1100 amendments require groundwater monitoring for the life of the fill operation, including closure, postclosure and any corrective action periods. The fill operation must test annually for all constituents that have a Class I groundwater quality standard listed in 35 Ill. Adm. Code 620.410.

If fill operations detect groundwater contamination above the Class I groundwater quality standards, corrective action must be performed. Illinois EPA is proposing that on-site corrective action achieve the numerical Class I groundwater quality standards referenced above. Off-site corrective action must achieve compliance with the applicable groundwater quality standards as well as the rest of 35 Ill. Adm. Code 620, which includes the non-degradation provisions.