

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Whiteside County Landfill) **Administrative Consent Order**
Morrison, Illinois)
) **EPA-01-05-IL-02**
Proceeding Under Sections)
113(a)(3) and 114(a)(1) of)
the Clean Air Act, 42 U.S.C.)
§§ 7413(a)(3) and 7414(a)(1))

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Whiteside County, Illinois ("Whiteside County"), under the authority of Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Under the authority of Section 111 of the Act, 42 U.S.C. § 7411, the Administrator of U.S. EPA may promulgate regulations establishing New Source Performance Standards.

3. Under the authority of Section 111(e) of the Act, the Administrator promulgated the New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills.

4. The NSPS regulations for Municipal Solid Waste (MSW) Landfills, codified at 40 C.F.R. Part 60, Subpart WWW, apply to MSW landfills that commenced construction, reconstruction or modification, or began accepting waste, on or after May 30, 1991. These NSPS regulations became effective on March 12, 1996.

5. The NSPS regulation at 40 C.F.R. § 60.2 defines "modification" as any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted.

6. The NSPS regulation at 40 C.F.R. § 60.751 defines "municipal solid waste landfill" or "MSW landfill" as an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion. Portions of an MSW landfill may be separated by access roads.

7. The NSPS regulation at 40 C.F.R. § 60.751 defines "lateral expansion" as a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

8. The NSPS regulation at 40 C.F.R. § 60.751 defines "disposal facility" as all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

9. The NSPS regulation at 40 C.F.R. § 60.752(b) requires that an owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall either comply with 40 C.F.R. § 60.752(b)(2) or calculate a Nonmethane Organic Compound (NMOC) emission rate for the landfill. The regulation requires the facility to recalculate the NMOC emission rate annually.

10. The NSPS regulation at 40 C.F.R. § 60.752(b)(2) requires the owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and having a calculated NMOC emission rate equal to or greater than 50 megagrams per year to comply with the requirements of 40 C.F.R. §§ 60.752(b)(2)(i), (ii), and (iii). Under 40 C.F.R. § 60.752(b)(2)(i), the owner or operator of an MSW landfill subject to 40 C.F.R. § 60.752(b)(2) shall submit a collection and control system design plan prepared by a professional engineer to the Administrator within one year of calculating the NMOC emission rate.

11. The NSPS regulation at 40 C.F.R. § 60.757(b)(1)(i)(B) requires that the owner or operator of an MSW landfill commencing construction, modification, or reconstruction on or after March 12, 1996, submit an initial NMOC emission rate report and initial design capacity report within 90 days after the date of commenced construction, modification, or reconstruction.

12. The NSPS regulation at 40 C.F.R. § 60.757(c) requires that the owner or operator of an MSW landfill submit a collection

and control system design plan prepared by a professional engineer to the Administrator within one year of the first report in which the NMOC emission rate exceeds 50 megagrams per year.

13. The NSPS regulation at 40 C.F.R. § 60.752(b)(2)(iii) requires that the owner or operator of an MSW landfill subject to the requirements of 40 C.F.R. § 60.752(b)(2) shall route all the collected gas to a control system that complies with the requirements of 40 C.F.R. § 60.752(b)(2)(iii)(A), (B), or (C). Under the regulation at 40 C.F.R. § 60.752(b)(2)(ii), this control system must be installed within 18 months of the deadline for submittal of the collection and control system design plan required under 40 C.F.R. § 60.757(c) (i.e., within 30 months of the first report in which the NMOC emission rate exceeds 50 megagrams per year).

14. The control system described in the NSPS regulation at 40 C.F.R. § 60.752(b)(2)(iii)(A) is an open flare designed and operated in accordance with 40 C.F.R. § 60.18.

15. The NSPS regulation at 40 C.F.R. § 60.18 requires that flares shall be designed and operated with no visible emissions, with a flame present at all times, with the appropriate exit velocity, and with the appropriate net heating value of the gas being combusted, determined using the test methods and equations specified in 40 C.F.R. § 60.18(f).

16. The NSPS regulation at 40 C.F.R. § 60.18(f) requires that Method 22 be used to determine compliance with the visible emission provisions; that a thermocouple be used to detect the presence of a flame; that Method 2, 2A, 2C, or 2D, as appropriate, be used to determine the exit velocity of the flare; and that ASTM Method D1946 be used to determine the net heating value of the gas being combusted.

17. The regulation at 40 C.F.R. § 60.8(a) requires that the owner or operator of a facility subject to NSPS (e.g., the flare control system described at 40 C.F.R. § 60.752(b)(2)(iii)(A)) shall conduct a performance test within 180 days after initial startup of the facility, and shall furnish U.S. EPA with a written report of the results of such performance tests.

18. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the NSPS regulations. The Administrator has delegated this authority to the Regional Administrator, U.S. EPA, Region 5, who has redelegated this authority to the Director of the Air and

Radiation Division.

19. Under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), the Administrator of U.S. EPA may require any person who is subject to any requirement of the Act to provide information required by the Administrator. The Administrator has delegated this authority to the Regional Administrator, who has redelegated this authority to the Director of the Air and Radiation Division.

Findings

20. The Whiteside County Landfill is a "municipal solid waste landfill" within the meaning of 40 C.F.R. § 60.751.

21. The Whiteside County Landfill is adjacent to and contiguous with Prairie Hill RDF.

22. Prairie Hill RDF is a "municipal solid waste landfill" within the meaning of 40 C.F.R. § 60.751.

23. The Whiteside County Landfill and Prairie Hill RDF are owned by the County of Whiteside.

24. Prairie Hill RDF is operated by Waste Management of Illinois.

25. The Whiteside County Landfill closed September 1992.

26. The Whiteside County Landfill has a design capacity of 1.42 Million Megagrams. Prairie Hill RDF has a maximum design capacity of 19.268 million megagrams and 21.638 million cubic meters.

27. The Whiteside County Landfill and Prairie Hill RDF together have a design capacity in excess of 2.5 million megagrams and 2.5 million cubic meters.

28. Prairie Hill RDF had an NMOC emission rate of 35.22 megagrams per year in 1997.

29. The opening of Prairie Hill RDF, which began accepting municipal solid waste in August 1996, was a lateral expansion of the Whiteside County Landfill that resulted in an increase in the design capacity of the Whiteside County Landfill, and hence was a "modification" of the Whiteside County Landfill within the meaning of 40 C.F.R. § 60.2. Therefore, Prairie Hill RDF and the

Whiteside County Landfill constitute a single MSW landfill within the meaning of 40 C.F.R. §60.751.

30. Whiteside County, the owner of the Whiteside County Landfill and Prairie Hill RDF, is subject to the requirements of 40 C.F.R. Part 60 for Municipal Solid Waste Landfills, as identified above.

31. Whiteside County, the owner of Prairie Hill RDF and the Whiteside County Landfill, filed its initial design capacity report and its initial NMOC emission rate report for the Whiteside County Landfill with Illinois Environmental Protection Agency on September 13, 1996, to meet the requirements under 40 C.F.R. § 60.757(b)(1)(i)(B). The initial NMOC emission rate report indicated that the NMOC emission rate for the Whiteside County Landfill was 152 megagrams per year (167 tons per year). Therefore, under 40 C.F.R. § 60.752(b)(2)(i) and § 60.757(c), Whiteside County was required to submit a collection and emission control system design plan no later than September 13, 1997 (one year after the first NMOC emission rate report indicating an NMOC emission rate equal to or greater than 50 megagrams per year).

32. Under 40 C.F.R. § 60.8(a), Whiteside County, the owner of the Whiteside County Landfill and Prairie Hill RDF, was required to conduct an initial performance test on its flare control system within 180 days after installation and operation of this system to establish the following concerning its flare control system: the visible emissions, using test Method 22; the presence of a continuous flame, using a thermocouple; the exit velocity of the flare, using Method 2, 2A, 2C, or 2D; and the net heating value of the gas being combusted in the flare, using ASTM Method D1946. The flare control system was installed and operational as of March 13, 1999, the compliance date required in 40 C.F.R. § 60.752(b)(2)(ii). Therefore, Whiteside County was required to conduct the initial performance test on its flare control system no later than September 10, 1999.

33. Whiteside County failed to conduct, by September 10, 1999, an initial performance test to establish the visible emissions (using test Method 22), the presence of a continuous flame (using a thermocouple), the exit velocity of the flare (using Method 2, 2A, 2C, or 2D), and the net heating value of the gas being combusted by its flare control system (using ASTM Method D1946), in violation of 40 C.F.R. §§ 60.752(b)(2)(iii)(A), 60.18 and 60.8(a).

34. Whiteside County failed to submit a collection and emission control system design plan to the Administrator of U.S.

EPA within one year (September 13, 1997) of the first report in which the emission rate exceeded 50 megagrams per year, in violation of 40 C.F.R. § 60.752(b)(2)(i) and § 60.757(c).

Compliance Program

35. Without admission of liability, Whiteside County agrees to comply with the terms and conditions set forth below while this Order remains in effect.

36. Whiteside County must follow the methods for complying with the monitoring, record keeping, and reporting requirements of the NSPS for MSW landfills in accordance with the NSPS Collection and Control System Design Plan submitted to IEPA on July 5, 2000.

37. Hereafter, Whiteside County must achieve, demonstrate, and maintain compliance with the NSPS for MSW landfills at its Whiteside County Landfill and Prairie Hill RDF in Morrison, Illinois.

38. Any authorized representative of the U.S. EPA or of the Illinois Environmental Protection Agency (including a designated contractor) may, upon presentation of credentials, and without prior notice, enter any facility owned or operated by Whiteside County at any time to determine compliance with the requirements of the Clean Air Act, the NSPS for MSW landfills, and provisions of this Order. Such authorized representative may take samples and photographs and inspect and copy such records as U.S. EPA may deem necessary. The inspection authority created under this paragraph is in addition to, and does not in any way limit, U.S. EPA's authority to investigate, inspect, or enter premises pursuant to any laws, permits, or regulations, including but not limited to any premises owned or operated by Whiteside County.

39. Any notice, report, or other document submitted by Whiteside County pursuant to this Order, which makes any representation concerning Whiteside County's compliance or noncompliance with any requirement of this Order, shall be certified by an authorized representative of Whiteside County. The certification of such responsible official shall be in the following form: **"I hereby certify that the information contained in or accompanying this submission is true, accurate and complete to the best of my knowledge, information and belief."**

40. Whiteside County must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

General Provisions

41. This Order does not affect Whiteside County's responsibility to comply with other local, State, and Federal laws and regulations.

42. This Order does not restrict U.S. EPA's authority to enforce Section 111 of the Act, or any other Section of the Act.

43. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Whiteside County's violation of the NSPS for MSW landfills.

44. Failure to comply with this Order may subject Whiteside County to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

45. The terms of this Order are binding on Whiteside County.

46. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

47. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

48. Respondent, Whiteside County, agrees to the terms of this Order. Should Respondent fail to comply with any provision contained in this Order, Respondent waives any rights it may possess in law or equity to challenge the authority of the U.S. EPA to bring a civil action in the appropriate United States District Court to compel compliance with this Order. With respect to any such civil action brought by U.S. EPA to compel compliance with this Order, Respondent waives any defenses as to jurisdiction and venue, and waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this Order. Respondent's agreement to waive the defenses described herein shall apply only to actions brought by U.S. EPA,

or by the United States at the request of U.S. EPA, to compel compliance with this Order, and shall not be construed as a waiver of any defense to actions brought by persons who are not parties to this Order.

49. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will expire one year from the effective date, if Respondent has complied with all of its terms and conditions. Within one year of the effective date of this Order, Respondent shall submit to U.S. EPA a certified compliance report attesting to Respondent's compliance with each of the terms and conditions of this Order. Should Respondent fail to submit the compliance report described herein, this Order shall remain effective until such compliance report is provided to U.S. EPA in accordance with the terms of this Order and U.S. EPA issues to Respondent a letter confirming that compliance with this Order has been achieved.

50. Whiteside County agrees to bear its own costs and attorneys' fees in this matter, and U.S. EPA agrees to bear its own costs and attorneys' fees in this matter.

March 14-01
Date



Tony Arduini
County Board Chairman
Whiteside County

3/23/01
Date



Cheryl Newton
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

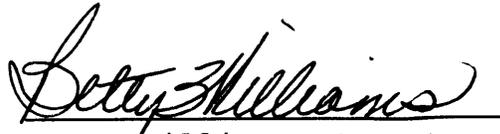
I, Betty Williams, do hereby certify that a final Administrative Consent Order, EPA-5-01-113(a) IL-02, was sent by Certified Mail, Return Receipt Requested, to:

Tony Arduini
County Board Chairman
Whiteside County
18819 Lincoln Road
Morrison, Illinois 61270

I also certify that a copy of the final Administrative Consent Order was sent by First Class Mail to:

Julie Armitage, Acting Section Manager
Compliance and Systems Management Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 26th day of March 2001.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70993400 00009591 89 45