

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedural Requirements for Permitted Landfills
- 2) Code Citation: 35 Ill. Adm. Code 813
- 3) Section Number: 243.108                      Proposed Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in the docket R17-5 rulemaking. A comprehensive description is contained in the Board's opinion and order of October 27, 2016, proposing amendment in docket R17-5, which opinion and order is available from the address below.

This proceeding updates the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules to correspond with an amendment adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during a single update period: January 1, 2016 through June 30, 2016:

May 10, 2016  
(81 Fed. Reg. 28720)

USEPA revised the maximum term of a research, development, and demonstration (RD&D) permit from 12 years to 21 years.

The Board deviated from the literal text of the USEPA amendment in format. The Board further included two corrections to rules format and updated a Code of Federal Regulations citation to the latest version available. These corrections and update are not directly derived from the instant federal amendments.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" (IIS-RA(P)) that the Board added to docket R17-5 which list the above corrections and update that are not based on current federal amendments. Persons interested in the details of those corrections and revision should refer to the IIS-RA(P) in docket R17-5.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is

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not subject to First Notice or Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R17-5 and be addressed to:

John T. Therriault, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference docket R17-5:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6924  
email: michael.mccambridge@illinois.gov



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Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that own or operate a municipal solid waste landfill. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
  - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
  - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: 40 Ill. Reg. 8832; July 1, 2016

The full text of the Proposed Amendment begins on the next page:

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE G: WASTE DISPOSAL  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING  
5

6 PART 813  
7 PROCEDURAL REQUIREMENTS FOR PERMITTED LANDFILLS  
8

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- 13 813.102 Delivery of Permit Application
- 14 813.103 Agency Decision Deadlines
- 15 813.104 Standards for Issuance of a Permit
- 16 813.105 Standards for Denial of a Permit
- 17 813.106 Permit Appeals
- 18 813.107 Permit No Defense
- 19 813.108 Term of Permit
- 20 813.109 Transfer of Permits
- 21 813.110 Adjusted Standards to Engage in Experimental Practices
- 22 813.111 Agency Review of Contaminant Transport Models
- 23 813.112 Research, Development, and Demonstration Permits for MSWLFs
- 24 813.113 Electronic Reporting

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26 SUBPART B: ADDITIONAL PROCEDURES FOR MODIFICATION  
27 AND SIGNIFICANT MODIFICATION OF PERMITS  
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- 30 813.201 Initiation of a Modification or Significant Modification
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- 40 813.302 Effect of Timely Filing
- 41 813.303 Information Required for a Permit Renewal
- 42 813.304 Updated Groundwater Impact Assessment
- 43 813.305 Procedures for Permit Renewal



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SUBPART D: ADDITIONAL PROCEDURES FOR INITIATION AND TERMINATION OF TEMPORARY AND PERMANENT CLOSURE AND POSTCLOSURE CARE

- Section
- 813.401 Agency Notification Requirements
- 813.402 Certification of Closure
- 813.403 Termination of the Permit

SUBPART E: CERTIFICATION AND REPORTS

- Section
- 813.501 Annual Certification
- 813.502 Groundwater Reports and Graphical Results of Monitoring Efforts
- 813.503 Information to be Retained at or near the Waste Disposal Facility
- 813.504 Annual Report

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15814, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12409, effective July 19, 1993; expedited correction at 18 Ill. Reg. 7501, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12388, effective August 1, 1994; amended in R98-9 at 22 Ill. Reg. 11483, effective June 23, 1998; amended in R05-1 at 29 Ill. Reg. 5066, effective March 22, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1466, effective December 20, 2006; amended in R17-5 at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROCEDURES

**Section 813.112 Research, Development, and Demonstration Permits for MSWLFs**

- a) Except as provided in subsection (f) of this Section, and subject to the limitations of subsections (c) through (e) of this Section, the Agency must issue a research, development, and demonstration (RD&D) permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods that deviate from either or both of the following standards, provided the Agency has determined that the MSWLF unit has a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate on the liner and that the innovative and new methods will not cause contamination of groundwater or surface water:

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- 1) The run-on control systems in 35 Ill. Adm. Code 811.103(b)(1) and (b)(2); and
  - 2) The liquids restrictions in 35 Ill. Adm. Code 811.107(m)(1).
- b) The Agency must issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion for which the owner or operator proposes to utilize innovative and new methods that deviate from the final cover standards of 35 Ill. Adm. Code 811.314(b) and (c) provided the Agency has determined that the MSWLF unit owner or operator has demonstrated that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water or cause leachate depth on the liner to exceed 30-cm.
- c) Any RD&D permit issued under this Section must include such terms and conditions as are at least as protective as the MSWLF standards of 35 Ill. Adm. Code 811.103(b)(1) and (b)(2), 811.107(m)(1), and 811.314(b) and (c) from which the deviation is granted to assure protection of human health and the environment. Such a permit must include the following conditions:
- 1) It must provide for the construction and operation of such facilities as are necessary, for not longer than three years, unless the permit is renewed as provided in subsection (e) of this Section;
  - 2) It must provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and non-hazardous wastes that the Agency has deemed appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;
  - 3) It must include such requirements as are necessary to protect human health and the environment, including such requirements as are necessary for testing and providing information to the Agency with respect to the operation of the facility;
  - 4) It must require the owner or operator of a MSWLF unit permitted under this Section to submit an annual report to the Agency showing whether and to what extent the site is progressing in attaining project goals. The report will also include a summary of all monitoring and testing results, as well as any other operating information specified by the Agency in the permit; and
  - 5) It must require compliance with all standards in 35 Ill. Adm. Code 811, except as permitted under this Section.

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- d) The Agency may request in writing that the owner or operator immediately terminate all operations at the facility permitted under this Section or request that the owner or operator undertake other corrective measures at any time the Agency has reason to believe that the overall goals of the project are not being attained, including protection of human health or the environment. The Agency or any person may file an enforcement action pursuant to Section 41 of the Act [415 ILCS 5/41] for any violations of the Act [415 ILCS 5].
  
- e) No permit issued under this Section may exceed three years in duration, and no single renewal of a permit under this Section may exceed three years in duration.
  - 1) The total term for a permit for a project including renewals may not exceed 21~~twelve~~ years; and
  - 2) During permit renewal, the applicant must provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the Agency determines are necessary for permit renewal.
  
- f) Small MSWLF units. An owner or operator of a MSWLF unit that disposes of 20 tons of municipal solid waste per day or less, based on an annual average, is not eligible for an RD&D permit under this Section with regard to the standards of 35 Ill. Adm. Code 811.314(b) and (c), except in accordance with 35 Ill. Adm. Code 811.314(d).

BOARD NOTE: This Section is derived from 40 CFR 258.4 (2016)(~~2004~~).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
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Section

- 813.101 Scope and Applicability
- 813.102 Delivery of Permit Application
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AND SIGNIFICANT MODIFICATION OF PERMITS

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- 813.201 Initiation of a Modification or Significant Modification
- 813.202 Information Required for a Significant Modification of an  
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- 813.203 Specific Information Required for a Significant Modification  
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- 813.204 Procedures for a Significant Modification of an Approved  
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SUBPART C: ADDITIONAL PROCEDURES FOR THE RENEWAL OF PERMITS

Section

- 813.301 Time of Filing
- 813.302 Effect of Timely Filing
- 813.303 Information Required for a Permit Renewal
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TEMPORARY AND PERMANENT CLOSURE AND POSTCLOSURE CARE

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~~NOTE: Capitalization indicates statutory language.~~

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2) The liquids restrictions in 35 Ill. Adm. Code 811.107(m)(1).

b) The Agency must issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion for which the owner or operator proposes to utilize innovative and new methods that deviate from the final cover standards of 35 Ill. Adm. Code

811.314(b) and (c) provided the Agency has determined that the MSWLF unit owner or operator has demonstrated that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water or cause leachate depth on the liner to exceed 30-cm.

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5) It must require compliance with all standards in 35 Ill. Adm. Code 811, except as permitted under this Section.

d) The Agency may request in writing that the owner or operator immediately terminate all operations at the facility permitted under this Section or request that the owner or operator undertake other corrective measures at any time the Agency has reason to believe that the overall goals of the project are not being attained, including protection of human health or the environment. The Agency or any person may file an enforcement action pursuant to Section 41 of the Act [415 ILCS 5/41] for any violations of the Act [415 ILCS 5].

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(Source: Amended at 41 Ill. Reg.           , effective           )

~~ILLINOIS REGISTER~~  
~~POLLUTION CONTROL BOARD~~  
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Legend:	
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Statistics:	
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Insertions	1
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	14