

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. DON HARMON

CO-CHAIR:
REP. RON SANDACK

EXECUTIVE DIRECTOR:
VICKI THOMAS



700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
217/785-2254

SEN. PAMELA ALTHOFF
SEN. BILL BRADY
SEN. KAREN M^cCONNAUGHAY
SEN. TONY MUÑOZ
SEN. IRA SILVERSTEIN
REP. GREG HARRIS
REP. LOU LANG
REP. DAVID R. LEITCH
REP. ANDRÉ THAPEDI
REP. MIKE TRYON

July 14, 2015

Dr. Deanna Glosser, Chairman
Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

RECEIVED
CLERK'S OFFICE

JUL 23 2015

STATE OF ILLINOIS
Pollution Control Board

Dear Chairman Glosser:

This is to notify you that JCAR considered the following proposed rulemaking at its 7/14/15 meeting:

Management of Used and Waste Tires (35 Ill. Adm. Code 848)
39 Ill. Reg. 02814 - 2/27/15

If your agency has agreed to any substantive modifications during its discussions with JCAR, they are described in the Agreements attached to the certification. Based on these Agreements, as well as the other responses you have provided the Committee during the review of this rulemaking, JCAR has determined that No Objection will be issued. Enclosed you will find formal certification of this action.

The rulemaking may now be adopted upon filing with the Office of the Secretary of State.

Please note that the fact that the Committee has not objected to this rulemaking does not necessarily constitute approval, expressed or implied, of the substance of the rulemaking.

Thank you for the cooperation your agency has shown during our review of these issues.

Sincerely,

Handwritten signature of Senator Don Harmon.
Senator Don Harmon
Co-Chairman

Handwritten signature of Representative Ron Sandack.
Representative Ron Sandack
Co-Chairman

SDH:RTS:JE:cw
cc: Clerk's Office
Enc.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. DON HARMON

CO-CHAIR:
REP. RON SANDACK

EXECUTIVE DIRECTOR:
VICKI THOMAS



700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
217/785-2254

SEN. PAMELA ALTHOFF
SEN. BILL BRADY
SEN. KAREN M'CONAUGHAY
SEN. TONY MUÑOZ
SEN. IRA SILVERSTEIN
REP. GREG HARRIS
REP. LOU LANG
REP. DAVID R. LEITCH
REP. ANDRÉ THAPEDI
REP. MIKE TRYON

JOINT COMMITTEE ON ADMINISTRATIVE RULES

CERTIFICATION OF NO OBJECTION
TO PROPOSED RULEMAKING

This is to certify that the Joint Committee on Administrative Rules, at its 7/14/15 meeting, considered Management of Used and Waste Tires (35 Ill. Adm. Code 848; 39 Ill. Reg. 2814), proposed by the Pollution Control Board and published in the 2/27/15 issue of the Illinois Register. After consideration, and based upon the Agreements, if any, for modification of the rulemaking made by the agency and attached to this document, the Committee determined that no Objection will be issued to the above-mentioned rulemaking.

July 14, 2015


Vicki Thomas
Executive Director

Attachments: Agreements

SECOND NOTICE CHANGES

Agency: Pollution Control Board

Rulemaking: Management of Used and Waste Tires (35 Ill. Adm. Code 848: 39 Ill. Reg. 2814)

Changes:

1. In lines 97 and 98, delete "Repealed" and strike all quotation marks.
2. In line 99, strike ""Certification of Acknowledgement"", add "Surety Bond Guaranteeing Payment" and delete "Repealed".
3. In line 100, delete "Repealed".
4. In lines 100-103, strike the quotation marks.
5. In line 110, after "amended" add "in R15-19".
6. In line 122, strike "a)" and delete "Reserved".
7. In line 124, strike the semicolon.
8. In lines 126 and 129, strike the subsection labels and add "a)" and "b)".
9. In lines 132, 134, 136, 139 and 143, change the subsection labels to "c)", "d)", "e)", "f)" and "g)".
10. In line 140, delete the comma.
11. In line 152, change "rules" to "35 Ill. Adm. Code 101.".
12. In line 153, delete added text and strike existing text.
13. Change lines 239-240 to "Passenger tire equivalent" or "PTE" is a conversion factor for changing numbers of tires to weight. It is calculated by dividing the total weight of passenger tires, in pounds, by 22.5 pounds (the average weight of passenger and lightweight tires).".
14. Before line 349, add "Tire storage unit" means a pile of tires or a group of piles of tires at a storage site. [415 ILCS 5/54.12a]".
15. Before line 368, add "Vector" means arthropods, rats, mice, birds or other animals capable of carrying disease-producing organisms to a human or animal host. "Vector" does not include animals that transmit disease to humans only when used as human food. [415 ILCS 5/54.14]".

16. In lines 384-385, delete "and any portion of such a tire".
17. In line 484, strike "a)" and delete "any tire storage sites and the owners and operators of".
18. In line 520, strike "a)" and delete "(Reserved)".
19. In line 523, strike the period.
20. In line 525, strike "b)" and add "a)".
21. In line 550, change "(b)" to "(a)".
22. In line 581, change "(d)" to "(c)".
23. In line 627, change "(c)" to "(b)". Strike "(b)" and add "(a)".
24. In line 672, strike "d)" and add "(c)". Strike "(b) and (c)" and add "(a) and (b)".
25. In line 721, change "(b)" to "(a)".
26. In line 740, change the comma to a semicolon.
27. In line 1305, delete "848".
28. In lines 1331 and 1404, delete "848,303".
29. In line 1517, strike "a)" and delete "(Reserved)".
30. In line 1520, strike "b)" and add "a)" and strike "(c)" and add "(b)".
31. In line 1522, after "disposing" add "of" and after "tires" add a period.
32. In line 1530, strike "c)" and add "(b)".
33. In line 1542, strike "2)" and delete "(Reserved)".
34. In line 1547, strike "3)" and delete "(Reserved)".
35. In line 1551, strike "4)" and add "2)".
36. In lines 1560-1572, change the subsection labels to "3)" through "5)".
37. In lines 1569 and 1578, change "(b)" to "(a)".
38. In line 1697, change "(e)" to "(d)".
39. In line 1854, change "nor" to "not" and delete the added comma.
40. In lines 2354-2355, italicize the added text.
41. In line 2355, after "Act" add "[415 ILCS 5/55(d)(2)(ii)]".

42. In lines 2860-2862, italicize the text.
43. In line 2863, italicize everything except "pursuant to this".
44. In line 2888, change "will" to "shall".
45. In lines 2977 and 2979, delete "**Repealed**".
46. Before line 2981, add:

"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) _____ ("corporation," "partnership," "association" or "proprietorship"), the "Grantor," and
 _____ (Name of corporate trustee), _____ ("incorporated in the State of _____ "or "a national bank"), the "Trustee.""

47. Reinstate the text of lines 2984-3183, except for the final word "Seal".
48. In line 2984, strike both commas.
49. In lines 2989, 2992 and 2995, after "Whereas" strike the comma.
50. In line 2996, after "regulated by" add "a state or federal agency." and strike the rest of the text.
51. Strike lines 2997-2998.
52. In line 3005, strike "owner or operator" and add "Grantor".
53. In line 3012, strike "initial" and add "the current" and after "estimate" add ", or portions thereof.".
54. In line 3016, strike "IEPA" and add "Illinois EPA".
55. In line 3024, before the period add "established by the Illinois EPA".
56. In lines 3026, 3029 (twice) and 3030, strike "IEPA" and add "Illinois EPA".
57. In line 3031, before the period add "as defined herein".
58. In line 3036, strike "Trust" and add "Trustee".
59. In line 3048, after the citation add a comma.

"SURETY BOND GUARANTEEING PAYMENT

Date bond executed: _____

Effective date: _____

Principal: _____

Type of Organization: _____

State of incorporation: _____

Surety(ies):

Removal Amount _____

Illinois EPA I.D. No. _____

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 of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, the Illinois Pollution Control Board (IPCB), has established certain regulations applicable to the Principal, 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; and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance.

The bond must guarantee that the Principal will perform removal in accordance with the removal plan and guarantee that, within 90 days after receipt by both the Principal and the Illinois EPA of a notice of cancellation of the bond from the Surety(ies), provide alternate financial assurance in accordance with 35 Ill. Adm. Code 848, Subpart D and obtain the Illinois EPA's written approval of the assurance provided.

The surety will become liable on the bond obligation when, under the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator does any one or more of the following:

- A) abandons the site;
- B) is adjudicated bankrupt;
- C) within 30 days after the date on which the known final volume of used or waste tires is received, either (i) fails to complete removal or (ii) fails to submit a removal plan that is approved by the Illinois EPA in accordance with 35 Ill. Adm. Code 848.506;
- D) fails to initiate removal when ordered to do so by the IPCB pursuant to Title VIII of the Illinois Environmental Protection Act, or when ordered to do so by a court of competent jurisdiction;
- E) fails to complete removal in accordance with the approved removal plan; or
- F) fails, within 90 days after receipt by both the owner or operator and the Illinois EPA of a notice of cancellation of the surety bond, to provide alternate financial assurance and obtain the Illinois EPA's written approval of the assurance provided.

If the Principal provides alternate financial assurance, as specified in 35 Ill. Adm. Code 848, Subpart D as applicable, and obtains the Illinois EPA Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Illinois EPA from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Illinois EPA Director that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Illinois EPA Director.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

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 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: \$ _____

Signature(s) _____

Name(s) _____

Title(s) _____

Bond premium: \$ _____ "

78. Change line 3194 to "Old Appendix A, Illustration B repealed, and New Appendix A, Illustration B added, at 39 Ill. Reg. _____, effective _____)".

79. In lines 3196 and 3198, delete "**Repealed**".

80. Reinstate lines 3200-3201.

81. Strike line 3202 and add:

"c/o Bureau of Land #24
Financial Assurance Program
1021 North Grand Ave. East
PO Box 19276".

82. Reinstate line 3203 and strike ", Illinois 62706" and add "IL 62794-9276".

83. Reinstate line 3205.

84. Reinstate lines 3210-3216.

85. After line 3211, number 2, 3rd and 4th lines, strike all of the text after "Act" and add "[415 ILCS 5].".
86. After line 3212:
 - 1st line, strike "will" and add "shall".
 - 2nd line, strike the semicolon and add a comma and strike "will" and add "shall".
87. In line 3216, after "fund" add "of _____".
88. After line 3217, add "We certify that the wording of this letter of credit was not altered or modified in any way other than as intended to complete the letter of credit.".
89. Reinstate lines 3220-3221.
90. In line 3220, strike "Typed".
91. In line 3222, change "Repealed" to "Amended".
92. In lines 3224, 3234 and 3288, delete "**(Repealed)**".

7/15/15