



OFFICE OF THE SECRETARY OF STATE

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January 27, 2017

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FEB 01 2017

STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 41, Issue 5 of the Illinois Register, dated 2/3/2017.

ADOPTED RULES

- Definitions and General Provisions
35 Ill. Adm. Code 211 1096 R17-2
Point of Contact: Mike McCambridge
- Air Quality Standards
35 Ill. Adm. Code 243 1121 R17-1
Point of Contact: Mike McCambridge
- Sewer Discharge Criteria
35 Ill. Adm. Code 307 1129 R16-9
Point of Contact: Mike McCambridge R17-18
- Pretreatment Programs
35 Ill. Adm. Code 310 1155 R16-9
Point of Contact: Mike McCambridge
- Procedural Requirements for Permitted Landfills
35 Ill. Adm. Code 813 1201 R17-5
Point of Contact: Mike McCambridge

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

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NOTICE OF ADOPTED AMENDMENT

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] 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 not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the November 14, 2016 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16, as indicated in item 11 above. See the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in the Identical-in-Substance Rulemaking Addendum (Final) itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency amendment currently in effect? No.
- 14) Are there any other amendments pending on this Part? No.
- 15) Summary and purpose of amendment: The following briefly describes the subjects and issues involved in the docket R17-5 rulemaking of which the amendments to Part PART are a single segment. Also affected is 35 Ill. Adm. Code PART, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of January 19, 2017, adopting amendments 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*

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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 (Final)” that the Board added to docket R17-5 that list the revision to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board’s October 27, 2016 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in–Substance Rulemaking Addendum (Final) 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 not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding these adopted amendment shall be directed to:
Please reference consolidated docket R17-5 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board’s opinion and order of January 19, 2017 at 312-814-3620. Alternatively, you may obtain a copy of the Board’s opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendment begins on the next page:

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

PART 813
PROCEDURAL REQUIREMENTS FOR PERMITTED LANDFILLS

SUBPART A: GENERAL PROCEDURES

Section	
813.101	Scope and Applicability
813.102	Delivery of Permit Application
813.103	Agency Decision Deadlines
813.104	Standards for Issuance of a Permit
813.105	Standards for Denial of a Permit
813.106	Permit Appeals
813.107	Permit No Defense
813.108	Term of Permit
813.109	Transfer of Permits
813.110	Adjusted Standards to Engage in Experimental Practices
813.111	Agency Review of Contaminant Transport Models
813.112	Research, Development, and Demonstration Permits for MSWLFs
813.113	Electronic Reporting

SUBPART B: ADDITIONAL PROCEDURES FOR MODIFICATION AND
SIGNIFICANT MODIFICATION OF PERMITS

Section	
813.201	Initiation of a Modification or Significant Modification
813.202	Information Required for a Significant Modification of an Approved Permit
813.203	Specific Information Required for a Significant Modification to Obtain Operating Authorization
813.204	Procedures for a Significant Modification of an Approved Permit

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
813.304	Updated Groundwater Impact Assessment
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 _____.

NOTE: Capitalization indicates statutory language.

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

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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].
- 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 _____)