

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
)  
PROPOSED 35 ILL. ADM. CODE 820 )  
GENERAL CONSTRUCTION OR ) R 2023-017  
DEMOLITION DEBRIS RECOVERY ) (Rulemaking-Land)  
FACILITIES. )

**NOTICE OF FILING**

**TO: Persons on Attached Service List**

PLEASE TAKE NOTICE that on the 7th day of December, 2022, I caused to be electronically filed with the Clerk of the Illinois Pollution Control Board, via the “COOL” System, the Post Hearing Comments submitted by the Illinois Attorney General’s Office, a true and correct copy of which is attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* KWAME RAOUL, Attorney General  
of the State of Illinois

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**CERTIFICATE OF SERVICE**

I, Audrey Avila, an Assistant Attorney General, caused to be served on this 7th day of December, 2022, a true and correct copy of the Notice of Filing and Post Hearing Comments submitted by the Illinois Attorney General's Office, upon the persons listed on the Service List via electronic mail or electronic filing, as indicated.

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
PROPOSED 35 ILL. ADM. CODE 820 )  
GENERAL CONSTRUCTION OR ) R 23-17  
DEMOLITION DEBRIS RECOVERY ) (Rulemaking-Land)  
FACILITIES. )

**POST HEARING COMMENTS**  
**BY THE ILLINOIS ATTORNEY GENERAL'S OFFICE**

The Illinois Attorney General's Office hereby files its Post Hearing Public Comments in the above-referenced matter.

**I. BACKGROUND**

On August 1, 2022, the Illinois Environmental Protection Agency ("Illinois EPA") proposed adoption of a new Part 820 of the Illinois Pollution Control Board's ("Board") Waste Pollution Regulations, 35 Ill. Adm. Code Part 820, as required by Section 22.38(n) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/22.38(n). The proposed Part 820 establishes rules for permitting, operating, and closing General Construction or Demolition Debris ("GCDD") recovery facilities. On September 20, 2022, the Illinois Attorney General's Office ("IAGO") submitted its Pre-Filed Questions Directed to the Illinois EPA. On September 27, 2022, the IAGO posed its questions to the Illinois EPA on the record during the Board's Public Hearing. On November 16, 2022, the Board held the second Public Hearing.

Pursuant to 35 Ill. Adm. Code § 102 and the Hearing Officer's November 29, 2022 Order, the IAGO, on behalf of the People of the State of Illinois, hereby submits the following comments to the Board for its consideration in this matter.

1. The proposed regulations frequently refer to a "facility" in general terms in some sections, and specifically refer to a "GCDD recovery facility" in others. The IAGO proposes

amending each of the following sections to use the term “GCDD recovery facility” for consistency:

- a. Section 820.103: Definition of “Malodor”;
  - b. Section 820.202(b) and 820.202(c);
  - c. Section 820.301(f)(ii);
  - d. Section 820.302;
  - e. Section 820.303(a), 820.303(c), and 820.303(d);
  - f. Section 820.304(a) and 820.304(d);
  - g. Section 820.305;
  - h. Section 820.306(a)(2); and
  - i. Section 820.402.
2. For Section 820.201(a), the IAGO proposes that the third line should be changed to read “The application ...” instead of “The applications ...”.
3. For Section 820.203, the IAGO proposes that the last line should be changed from “... a GCDD recovery...” to “... a GCDD recovery facility ...”.
4. For Section 820.204, the IAGO proposes that the first line be changed from “A permit may be transferred...” to “A GCDD recovery facility permit may be transferred...”.
5. For Section 820.301(f)(i), the IAGO proposes including the phrase “the weight or” before the word “volume” to be consistent with the referenced Statute.
6. For Sections 820.302(f) and (g), subsection (f) ends with “at all times”, while subsection (g) omits that phrase. The IAGO proposes revising subsection (g) to add the phrase “at all times” for consistency.
7. For Section 820.303(c)(3), the IAGO proposes that subsection (c)(3) be italicized,

as it appears to be quoting the Statute.

8. Regarding Section 820.303(d), while Illinois EPA has stated that the intent for this Section is to capture material that was commingled with GCDD and discovered after the fact, the IAGO notes that the General Assembly did not provide any statutory exceptions in Section 22.38(j) of the Act, 415 ILCS 5/22.38(j), authorizing GCDD recovery facilities to accept any waste other than GCDD or to store any non-GCDD waste onsite. To the extent Section 820.303(d) remains in the regulation, which appears to exceed the General Assembly's grant of authority, the IAGO proposes that non-GCDD waste be disposed of at a facility authorized to receive the waste within 24 hours of receipt at the GCDD recovery facility and that the Board impose recordkeeping requirements for receipt of these unacceptable materials at GCDD recovery facilities that would be included in Section 820.304.

9. For Sections 820.304(a) and (d), the IAGO proposes that subsections (a) and (d) of this Section should include the phrase "of a GCDD recovery facility", as follows "The owner or operator of a GCDD recovery facility...".

10. For Section 820.304(c), the IAGO notes that in the first line, there is a comma missing after "July 1".

11. For Section: 820.304(d)(3), the IAGO notes that in line 2, "have submitted" should be "have been submitted."

12. For Section 820.306(b)(3), the IAGO proposes that subsection (b)(3) be revised to a new subsection (c).

13. For Section 820.401(c)(3), the IAGO notes that in the last sentence the word "of" is missing between "close all" and "the owner," and "the owner" should be possessive ("the owner's").



14. For Section 820.401(e), the IAGO notes that in the last line, the acronym “CGDD” should be spelled as “GCDD.”

Respectfully submitted,

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