

Board Adopts Second First Notice Proposal for New Procedural Rules for Landscape Waste and Compost Authorizations Under 415 ILCS 21(q), R 12-11

On February 2, 2012, the Board proposed for a second first notice publication in the *Illinois Register* new procedural rules for adjusted standards addressing Board authorizations for certain landscape waste and compost applications and on-farm composting. The rulemaking is docketed as In the Matter Of: Procedural Rules for Authorizations Under P.A. 97-220 For Certain Landscape Waste and Compost Applications and On-Farm Composting Facilities: New 35 Ill. Adm. Code 106.Subpart I, R12-11. The Board's October 20, 2011 first notice proposal was published at 35 Ill. Reg. 18492 (Nov. 14, 2011). Given the type of changes being proposed in response to public comments received during the first notice period, the Board found it advisable to again publish first notice changes in the *Illinois Register* and to initiate another public comment period.

In the absence of any other rulemaking proposal, the Board initiated this rulemaking in response to P.A. 97-220, signed and effective July 28, 2011. P.A. 97-220 amends the Environmental Protection Act to specify that the Board rather than the Illinois Environmental Protection Agency (IEPA) may authorize certain exceptions to the provisions of Section 21(q) of the Environmental Protection Act (Act), 415 ILCS 5/21. One type of Board authorization would allow any person to apply landscape waste and composted landscape waste at a rate greater than "agronomic rates" of not more than 20 tons per acre per year. The other type of Board authorization is limited to farmers who operate a composting facility on the land that they utilize landscape waste compost to operate the compost facility on more than two percent of the property's total acreage. Without such Board authorizations, these activities are prohibited, and subject to enforcement.

These rules differ from the original first notice rules by requiring the applicant for a Section 21(q) authorization to publish newspaper notice of the application in the area likely to be affected. The new notice requirement is similar to that required for adjusted standards under Section 28.1 of the Act and the Board's adjusted standard procedural rules at 35 Ill. Adm. Code 104. These added rules provide that the Board will hold a public hearing if requested to do so in writing by any person within 21 days of the notice's publication. Added rules concerning conduct of the public hearing are similar to those in Part 104.

The Board is not required to hold a public hearing to amend its procedural rules pursuant to Section 26 and 27 of the Act. The Board presently does not intend to hold a hearing on these proposed rules unless requested to do so.

Publication of these proposed amendments in the *Illinois Register* will begin a 45-day public comment period, during which anyone may file a public comment with the Board. The Board encourages persons to file public comments on these proposed amendments. The docket number for this rulemaking, R12-11, should be indicated on the public comment.

Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address:

Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

In addition, public comments may be filed electronically through COOL at www.ipcb.state.il.us. Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained from the Clerk's office upon payment of reproduction fees as prescribed by Section 6 of the Freedom of Information Act [5 ILCS 140/6].

For more information contact Kathleen Crowley at 312-814-6929 or email at crowlek@ipcb.state.il.us.