



**CERTIFICATE OF SERVICE**

I, Katherine D. Hodge, the undersigned, on oath state the following:

That I have served the attached **PUBLIC COMMENT OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP**, via electronic mail upon:

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That my email address is [Katherine.Hodge@heplerbroom.com](mailto:Katherine.Hodge@heplerbroom.com).

That the number of pages in the email transmission is 8 pages.

That the email transmission took place before 5:00 p.m. on the date of August 20, 2018.

/s/ Katherine D. Hodge

Katherine D. Hodge

Date: August 20, 2018

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
RCRA SUBTITLE D UPDATE, USEPA REGULATIONS (July 1, 2016 through December 31, 2016)	)	R17-14 (Identical-in-Substance Rulemaking - Land)
RCRA SUBTITLE C UPDATE, USEPA AMENDMENTS (July 1, 2016 through December 31, 2016)	)	R17-15 (Identical-in-Substance Rulemaking - Land)
RCRA SUBTITLE C UPDATE, USEPA AMENDMENTS (July 1, 2017 through December 31, 2017)	)	R18-12 (Identical-in-Substance Rulemaking - Land)
UIC UPDATE: MISCELLANEOUS NON-SUBSTANTIVE REVISIONS AND CORRECTIONS TO 35 ILL. ADM. CODE 704, 705, 730, AND 738)	)	R18-31 (Identical-in-Substance Rulemaking - Land) (Consolidated)

**Public Comment of the Illinois Environmental Regulatory Group**

The Illinois Environmental Regulatory Group (“IERG”) would like to thank the Illinois Pollution Control Board (“Board”) for the opportunity to submit a comment in its consolidated rulemaking to update Illinois’ municipal solid waste landfill, hazardous waste, and underground injection control rules to be identical in substance to the federal rules adopted by U.S. EPA.

IERG is an Illinois non-profit corporation affiliated with the Illinois Chamber of Commerce and is comprised of forty-six (46) member companies that are regulated by governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. Many IERG member companies are subject to the rules being amended in this rulemaking, and will be impacted by any changes made. As a general matter, IERG supports the updates being made in this rulemaking, and encourages the Board to proceed expeditiously with their adoption.

IERG has, however, identified an issue that it seeks clarification on. Specifically, the Board has proposed to create a new Subpart L in 35 Ill. Admin. Code Part 722 entitled *Alternative Standards for Episodic Generation*. IERG notes that in both Subsection 722.332 (a)(1) and (b)(1), the Board has deviated from the text of the federal rule (40 CFR 262.232) by

apparently limiting the circumstances for which a very small quantity generator (“VSQG”) or small quantity generator (“SQG”) may petition to have a second episodic event. The federal rule specifies that:

- (1) The very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under § 262.233;

40 CFR 262.232(a)(1). The Board has proposed to change that same language to specify that:

- 1) The VSQG is limited to one episodic event per calendar year, unless **the Agency has determined that an additional planned episodic event is necessary**, as provided in Section 262.233<sup>1</sup>;

Proposed 35 Ill. Admin. Code 722.332(a)(1), emphasis added.

It is unclear to IERG whether the Board’s change is intended to limit those instances where a second episodic event is allowed to only those that are a “planned episodic event” or if the language is intended to mean that the Agency can only determine the necessity for a “planned episodic event” but that for an “unplanned episodic event” no Agency determination is necessary. Based on its discussion on episodic events in its May 24 Opinion and Order, IERG does not believe that the first interpretation is contemplated by the language. *See* p. 25: “If the generator already had an unplanned episodic event, it may apply for an additional planned episodic event. If the generator already had a planned episodic event, it may apply for an additional unplanned episodic event,” and the proposed 35 Ill. Admin. Code 722.333 (a)(1) and (2). Because IERG sees the potential for confusion in the language proposed by the Board it asks that

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<sup>1</sup> IERG notes also that in both the proposed subsections (a)(1) and (b)(1), the Board needs to update the reference to specify Section 722.333.

the Board clarify by reverting its language to that in the federal rule, or provide a more robust explanation as to what is intended by its change to the language.

Additionally, IERG notes the following sections in the Board's May 24 Opinion and Order with incorrect statutory and regulatory references:

- Page 6, paragraph titled "References to the WIETS and AES:"
  - o In this paragraph, the Board cites to numerous federal regulations and then cites to corresponding Board regulations. When citing to the federal regulations, the Board cites to "40 C.F.R. 725.112(a)(2)." IERG believes this reference was in error as there is no 40 C.F.R. 725.112.
  - o Additionally, when citing to the corresponding Board regulations, the Board cites to 35 Ill. Adm. Code "262.84(b)(1) and (d)(2)(xv)," "264.12(a)(2)," "254.12(a)(4)(ii)," and "267.71(a)." IERG believes these references were in error as there is no Part 262 or Part 267 in the Board's regulations, Part 264 has been repealed, and there is no Section 254.12.
- Page 10, first paragraph: The Board cites to "722184(b)(1)." IERG believes this citation is in error and should be "722.184(b)(1)."
- Page 20, paragraph titled "*Acronyms 'LQG,' 'SQG,' and 'VSQG' to Refer to the Generator Categories:*" After citing to Board regulations, the Board states "(corresponding with 35 Ill. Adm. Code . . .)." IERG believes the Board intended to cite to the corresponding federal regulations. Therefore, IERG believes this should state "(corresponding with 40 CFR . . .)."



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