

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
PROPOSED 35 ILL. ADM. CODE 820 ) R23-17  
GENERAL CONSTRUCTION OR ) (Rulemaking – Land)  
DEMOLITION DEBRIS RECOVERY )  
FACILITIES )

**NOTICE**

TO: ATTACHED CERTIFICATE OF SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board this PRE-FILED ANSWERS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, a copy of which is hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ John M. McDonough II  
John M. McDonough II  
Assistant Counsel  
Division of Legal Counsel

DATED: November 15, 2022

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

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**PRE-FILED ANSWERS OF THE  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

Today, the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”) files its answers to the National Waste & Recycling Association’s (“NWRA”) pre-filed questions in advance of the hearing scheduled for November 16, 2022. NWRA filed (7) seven questions addressed to the Agency on November 9, 2022. In response, the Illinois EPA has organized the questions and answers into the following submittal:

**Illinois EPA Responses to NWRA Pre-Filed Questions**

1. Will the proposed rules require the owner or operator of a GCDD recovery facility to track incoming materials in order to demonstrate compliance with the 40% minimum recycling requirement?

**Illinois EPA response:** The Agency intended to capture compliance with the recordkeeping provisions of Section 22.38 of the Act in drafting its proposal. Section 820.304 of the proposal mirrors Section 22.38(b)(6) of the Act stating, in relevant part, “[t]he owner or operator shall employ tagging and daily recordkeeping procedures to, at a minimum, demonstrate compliance with the Act and this Part.” (See proposed 35 Ill. Adm. Code 820.304(a)). That compliance demonstration includes records reflecting the satisfaction of the requirement that the facility “[e]nsure that no less than 40% of the total [GCDD] received at the facility on a rolling 12-month average basis is recyclable [GCDD]. . .” (See: 415 ILCS 5/22.38(b)(0.5)). The Agency welcomes proposed language that would address any concerns regarding the absence of a specific reference to this material acceptance limitation.

2. Regarding materials transported from the GCDD recovery facility, will the record keeping requirements in Section 820.304 require the owner or operator of the GCDD recovery facility to report the type, weight, destination, transporter of material, and the owner and

operator of the destination facility for each of the following categories of materials: 1) recyclable GCDD; 2) GCDD that is not recyclable; 3) wood that is used for fuel; 4) clean construction or demolition debris; and 5) GCDD that is required for disposal at a permitted landfill?

**Illinois EPA response:** No. In drafting its proposal, the Agency sought to blend effective existing practices and the amended portions of the Act. Section 22.38 of the Act, as amended by Public Act 102-310 does not require this level of reporting.

3. Can the form submitted by the Agency as Attachment A be supplemented with a form that provides daily and monthly information on 1) the amount of C&D accepted; 2) amount of C&D remaining on-site; 3) wood on-site recovered for use as fuel; 4) recyclable C&D transported offsite; and 5) non-recyclable C&D transported offsite?

**Illinois EPA response:** The Agency considered this approach when developing the form. During outreach, some stakeholders expressed concern that required use of daily and monthly forms that did not conform to those facilities' existing reporting practices presented a significant operational hardship. In light of these concerns and absent a statutory mandate to develop such forms, the Agency elected not to include those reports with the form that is currently in use.

4. The quarterly report form submitted by the Agency as "Attachment A" to its October 26, 2022, filing does not provide a means to track compliance with these deadlines to transport materials offsite. Can the quarterly report be supplemented with a form that provides daily and monthly information to demonstrate compliance or non-compliance with these deadlines?

**Illinois EPA response:** See response to question 3.

5. For the purposes of regulatory consistency, should not the definition of "malodor" be identical throughout the Board's regulations

**Illinois EPA response:** The definition of "malodor" is partially based on the definitions of "malodor" in 35 Ill. Adm. Code 810.103 and "air pollution" in 415 ILCS 5/3.115. The intent is to allow a determination of malodor to be based simply on the odor being offensive to a reasonable person (e.g., offensive to neighbors) regardless of whether it may be injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life of property. The Agency does not view the definition in the proposal and in Part 810 as inconsistent. Rather, the definition in the proposal reflects an effort to more clearly state the intended meaning of the term.

6. Please provide a definition and examples of putrescible GCDD.

**Illinois EPA response:** Putrescible recyclable GCDD is defined in the proposal as "GCDD material containing organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or that can provide food for birds

and vectors.” (See proposed 35 Ill. Adm. Code 820.103). Putrescible recyclable GCDD materials would be derived from the definition of “GCDD” under Section 3.160(a) of the Act as well as the definition of “recyclable GCDD” under Section 22.38(c) of the Act. (See: 415 ILCS 5/3.160(a) and 415 ILCS 5/22.38(c)). A sample of illustrative examples include: (1) wallboard containing gypsum which, when stored improperly produces hydrogen sulfide gas when left to decompose by anaerobic bacteria (See proposed 35 Ill. Adm Code 820.303(b)); (2) wall fabrics and coverings which could foster mold or fungal growth; and (3) generally, putrescible materials include shelf stable foods like pantry items which, if comingled with recyclable GCDD would diminish the quality of the recyclable materials.

7. Will a weight or volume limit be imposed on the amount of putrescible recyclable GCDD that may be stored at a site during the 45 calendar day period that this material may remain on site?

**Illinois EPA response:** No. The Agency intended to be faithful to the text of the Act in developing its proposal. Section 22.38 of the Act does not establish any volumetric limits on the amount of GCDD that may be stored at a GCDD recovery facility, provided such storage does not create odor, disease vector, dust, or litter issues. Accordingly, the Agency framed its proposal in terms of compliance with operational standards and not specific volumetric thresholds.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ John M. McDonough II

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Assistant Counsel  
Division of Legal Counsel

DATED: November 15, 2022

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**CERTIFICATE OF SERVICE LIST**

I, the undersigned, an attorney, affirm that I have served the attached PRE-FILED ANSWER OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, on behalf of the Illinois EPA, upon the following person(s) by e-mailing it to the e-mail address(es) indicated below or, if no e-mails address is provided, by placing a true copy, in an envelope duly addressed and bearing proper first class postage, in the United States mail at Springfield, Illinois on November 15, 2022:

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I affirm that my e-mail address is john.mcdonough@illinois.gov; the number of pages in the e-mail transmission is 7; and the e-mail transmission took place today before 5:00 PM. If you prefer service by mail, please contact me and a copy will be mailed to you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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