

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

PART 832
PROCEDURAL REQUIREMENTS FOR PERMITTING COMPOST FACILITIES

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AUTHORITY: Implementing Sections 5, 21, 22.26, 22.33, 22.34, 22.35, 39 and 40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 22.26, 22.33, 22.34, 22.35, 39, 40 and 27].

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

SOURCE: Adopted at 18 Ill. Reg. 17009, effective November 15, 1994.

Section 832.101 Scope and Applicability

This Part contains the procedures to be followed by the Agency in processing permits required pursuant to Section 21(d) of the Act and 35 Ill. Adm. Code 831. The definitions set forth in 35 Ill. Adm. Code 830.102 apply to this Part.

Section 832.102 Severability

If any provision of this Rule is adjudged invalid, or if the application thereof to any person or in any circumstance is adjudged invalid, such invalidity shall not affect the validity of either this Part as a whole or any Subpart, Section, subsection, sentence or clause thereof not adjudged invalid.

Section 832.103 Form and Delivery of Permit Application

All permit applications must be made on forms prescribed by the Agency, and must be mailed or delivered to the address designated by the Agency on the forms. The Agency shall provide a dated, signed receipt upon request. The Agency's record of the date of filing shall be deemed conclusive unless a contrary date is proved by a dated, signed receipt. Permit applications which are hand-delivered must be delivered during the Agency's normal business hours.

Section 832.104 Required Notifications

The Agency shall not issue a development or construction permit after December 31, 1990 for any composting facility, unless the applicant has given notice thereof:

- a) *In person or by mail to the members of the General Assembly from the legislative district in which the proposed facility is to be located;*
- b) *By registered or certified mail to the owners of all real property located within 250 feet of the site of the proposed facility (determined as provided in subsection (b) of Section 39.2 of the Act); and*
- c) *To the general public by publication in a newspaper of general circulation in the county in which the proposed facility is to be located. (Section 22.26 of the Act.)*
 - 1) At a minimum, the newspaper notification must meet the following requirements:
 - A) Publication in the legal notice section of a daily newspaper in circulation within the city or area in which the facility is proposed to be located;

- B) Published once a week for three successive weeks, pursuant to Section 3 of the Illinois Notice by Publication Act [715 ILCS 5/3].
- 2) The newspaper notification should contain:
 - A) A description of the type of facility being proposed;
 - B) The location of the proposed facility;
 - C) The name of the person or corporation proposing the facility with a contact person and phone number; and
 - D) Instructions to direct comments to the Agency in writing within twenty-one (21) days after the date of last publication. The Agency address and the phone number(s) of the bureau(s) and section(s) reviewing the permit must be provided.
- 3) The notification must not be published more than 3 months before filing the application and must commence no later than the filing date. Copies of the newspaper notification must either accompany the application or be sent to the Agency within 30 days after filing the application.

Section 832.105 Agency Decision Deadlines

- a) *If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when notice and opportunity for public hearing are required by State or Federal law or regulation. (Section 39(a) of the Act.)*
- b) An application for permit pursuant to this Part shall not be deemed filed until the Agency has received all information and documentation in the form and with the content required pursuant to this Part, 35 Ill. Adm. Code 830 and 35 Ill. Adm. Code 831. However, if, pursuant to the standards for the denial of a permit, the Agency fails to notify the applicant within 30 days following the filing of a purported application that the application is incomplete and the reason the Agency deems it incomplete, the application shall be deemed to have been filed as of the date of such purported filing as calculated pursuant to Section 832.103. The applicant may treat the Agency's notification that an application is incomplete as a denial of the application for the purpose of permit appeal.
- c) The applicant may waive the right to a final decision within the decision deadline. Such waiver shall be submitted in writing to the Agency prior to the applicable deadline in subsection (a) of this Section.
- d) The applicant may modify a permit application at any time prior to the Agency decision deadline date. Any modification of a permit application must constitute a new application for the purposes of calculating the Agency decision deadline date.
- e) Final action must be deemed to have taken place on the date that such final action is signed.

- f) The Agency shall mail all notices of final action by registered or certified mail, postmarked with a date stamp and accompanied by a return receipt request.

Section 832.106 Standards for Issuance of a Permit

- a) *When the Board has by regulation required a permit for the construction, installation, or operation of any type of facility, equipment, vehicle, vessel, or aircraft, the applicant shall apply to the Agency for such permit and it shall be the duty of the Agency to issue such permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of the Act or of regulations set forth in 35 Ill. Adm. Code: Chapter I.*
- b) *In granting permits, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act, and as are not inconsistent with the regulations promulgated by the Board.*
- c) *No permit shall be issued by the Agency under the act for construction or operation of any facility or site located within the boundaries of any setback zone established pursuant to the Act, where such construction or operation is prohibited. (Section 39 of the Act.)*

Section 832.107 Standards for Denial of a Permit

If the Agency denies any permit pursuant to this Section, the Agency shall transmit to the applicant, within the time limitations for Agency decision deadlines, specific, detailed statements as to the reasons the permit application was denied. Such statements shall include but not be limited to the following:

- a) *The Sections of the Act that may be violated if the permit were granted;*
- b) *The provision of the regulations set forth in 35 Ill. Adm. Code: Chapter I, promulgated pursuant to the Act, that may be violated if the permit were granted;*
- c) *The specific information, if any, the Agency deems the applicant did not provide in its application to the Agency; and*
- d) *A statement of specific reasons why the Act and the regulations set forth in 35 Ill. Adm. Code: Chapter I might be violated if the permit were granted. (Section 39(m) of the Act.)*

Section 832.108 Permit Appeals

If the Agency refuses to grant or grants with conditions a permit under Section 39 of the Act, the applicant may, within 35 days, petition for a hearing before the Board to contest the decision of the Agency. (Section 40(a)(1) of the Act.) The petition shall be filed, and the

proceeding conducted, pursuant to the procedures of Section 40 of the Act and 35 Ill. Adm. Code 101 and 105.

Section 832.109 Permit No Defense

The issuance and possession of a permit shall not constitute a defense to a violation of the Act or any Board regulations, except for the development and operation of a facility without a permit.

Section 832.110 Term of Permit

No permit issued pursuant to this part shall have a term of more than 5 years.

Section 832.111 Transfer of Permit

A permit may be transferred to a new operator only upon permit modification, pursuant to this Part, to identify the new permittee and incorporate other requirements necessary under the Act. The application must be signed by the existing owner or duly authorized agent of the owner and the new owner and operator or duly authorized agents. The new operator to whom the permit is transferred shall comply with all terms and conditions specified in such permit.

SUBPART B: ADDITIONAL PROCEDURES FOR MODIFICATION OF PERMITS

Section 832.201 Agency-Initiated Modification of an Approved Permit

- a) The Agency may modify a permit under the following circumstances:
 - 1) Discovery of a typographical, administrative, or calculation error;
 - 2) Discovery that a determination or condition was based upon false or misleading information;
 - 3) An order of the Board issued in an action brought pursuant to Title VII, IX or X of the Act; or
 - 4) Promulgation of new statutes or regulations affecting the permit.
- b) Modifications initiated by the Agency shall not become effective until 45 days after receipt by the operator, unless stayed during the pendency of an appeal to the Board. The operator may request that the Agency reconsider the modification, or may file a petition for hearing with the Board pursuant to Section 832.108. All other time periods and procedures in 832.202 shall apply.

Section 832.202 Procedures for a Modification of an Approved Permit

Application for modification of an approved permit shall be subject to all requirements and time schedules set forth in this Part.

SUBPART C: ADDITIONAL PROCEDURES FOR THE RENEWAL OF PERMITS

Section 832.301 Time of Filing

An application for renewal of a permit must be filed with the Agency at least 90 days prior to the expiration date of the existing permit.

Section 832.302 Effect of Timely Filing

When a permittee has made timely and sufficient application for the renewal of a permit, the existing permit shall continue in full force and effect until the final Agency decision on the application and any final Board decision on any appeal pursuant to Section 40 have been made, unless a later date is fixed by order of a reviewing court.

Section 832.303 Procedures for Permit Renewal

Applications for permit renewal are to be subject to the requirements and time schedules set forth in Subpart A of this Part.