



OFFICE OF THE SECRETARY OF STATE

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July 9, 2012

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JUL 16 2012

STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD
JOHN THERRIAULT ASSISTANT CLERK
100 W RANDOLPH ST, STE 11-500
CHICAGO, IL 60601

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 36, Issue 28 of the Illinois Register, dated 7/13/2012.

ADOPTED RULES

Maximum Setback Zones
35 Ill. Adm. Code 618
Point of Contact: Nancy Miller

10042 R11-25

PROPOSED RULES

Proceedings Pursuant to Specific Rules or Statutory Provisions
35 Ill. Adm. Code 106
Point of Contact: Nancy Miller

9924 R12-11

Proceedings Pursuant to Specific Rules or Statutory Provisions (Withdrawal)
35 Ill. Adm. Code 106
Point of Contact: Nancy Miller

10537 R12-11

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

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POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULES

- 1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions
- 2) Code Citation: 35 Ill. Adm. Code 106
- 3) Section Numbers: Proposed Action:

106.100	Amended
106.900	New
106.902	New
106.904	New
106.906	New
106.908	New
106.910	New
106.912	New
106.914	New
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: 35 Ill. Reg. 18492, November 14, 2011; 36 Ill. Reg. 2643, February 24, 2012.
- 5) Reason for the Withdrawal:

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The above-cited publication was authorized by the Pollution Control Board's opinion and order of February 2, 2012. See 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 (Feb. 2, 2012) (second first notice opinion and order). These rules are to be codified at 35 Ill. Adm. Code 106.Subpart I, and will apply to Board authorizations made under P.A. 97-220, signed and effective July 28, 2011. Among other things, P.A. 97-220 amends Section 21(q) of the Environmental Protection Act (Act), 415 ILCS 5/21(q) (2010). The amendments to Section 21(q) specify that the Board (rather than the Illinois Environmental Protection Agency (IEPA) as previously provided) may authorize certain exceptions to the provisions of that section.

One type of Board authorization available under Section 21(q)(2) would allow any person to apply landscape waste or composted landscape waste at a rate greater than "agronomic rates" of not more than 20 tons per acre per year. Under Section 21(q)(3), farmers who operate a composting facility may be authorized to use landscape waste compost to operate the compost facility on more than 2% of the property's total acreage. Without such Board authorizations, these activities are prohibited acts under Section 21(q), and violators are subject to enforcement.

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NOTICE OF WITHDRAWAL OF PROPOSED RULES

The Board's first Notice of Proposed Amendments was published November 14, 2011 at 35 Ill. Reg. 18492. Based on public comments from a citizen and units of local government, the Board made changes to the notice provisions of the rules, determined to withdraw the original first notice at the suggestion of the Joint Committee on Administrative Rules (JCAR) , and published a second Notice of Proposed Amendments on February 24, 2012 at 36 Ill. Reg. 2643. The Board specifically requested comments from the initial commenters and the IEPA, which did not comment on the original first notice.

Based on public comments received from the IEPA during the notice period following the February 24, 2012 publication of a Notice of Proposed Amendments the Board decided additional changes were necessary. The Board proposed to add specificity to the requirements for information to be provided in a petition, and also to give the IEPA 45-days in which to respond to the petition.

Given the nature of the changes to the informational requirements in a petition made at IEPA request, the Board determined that additional changes to the proposal were necessary. The Board decided to withdraw the second first notice proposal, and to again publish a third Notice of Proposed Amendments. In its June 21, 2012 opinion and order, the Board stated its belief that this was the most efficient way to: a) publicize proposed changes to rules implementing the new legislative mandate to the Board in P.A. 97-220; and b) allow the Agency and the affected composting persons and entities, as well as the public, adequate notice and opportunity to comment on the proposed changes. *See* 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 (June 21, 2012) (third first notice opinion and order). The June 21, 2012 revised proposal will be published in the *Illinois Register* soon.

Questions regarding this matter should reference Board Docket R12-11, and be directed to:

Kathleen Crowley
Senior Attorney
Illinois Pollution Control Board
100 W. Randolph—Suite 11-500
Chicago, IL 60601
312-814-6929