**Section 813.110 Adjusted Standards to Engage in Experimental Practices**

a) Experimental practices are design, construction, and operation methods and techniques that are not expressly authorized by, and whose employment cannot be demonstrated by the applicant to be in compliance with, Section 813.112 or 35 Ill. Adm. Code 811, 812, and 814. Experimental practices may be implemented only at permitted landfills.

b) Pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, any person may, at any time, petition the Board for an adjusted standard to any standard in 35 Ill. Adm. Code 811, 812, or 814 in order to engage in an experimental practice at a permitted landfill in accordance with the requirements of this Section.

c) The petition for adjusted standard must contain the following information in addition to that required by Subpart D of 35 Ill. Adm. Code 104. However, if the applicant believes that any of the information required by this Section is inapplicable, the applicant may so state provided that the petition contains an explanation of the inapplicability.

1) A narrative description of the experiment, describing the necessity of this experiment and an assessment of the expected outcome of this experiment;

2) A list of all standards in 35 Ill. Adm. Code 811 that must be adjusted in order to conduct the experiment and a reason why each standard must be adjusted;

3) A description of the monitoring program (see 35 Ill. Adm. Code 811) to be implemented during the experiment;

4) Criteria for evaluating the experimental practice. The criteria must be specific enough to allow the Agency to evaluate the performance of the experimental practice from the monitoring results pursuant to subsection (f)(1) of this Section;

5) A description of the methods to be implemented and the total costs to restore the facility to compliance with all standards in 35 Ill. Adm. Code 811, 812, or 814 if the experiment is determined to be a failure. The methods must be feasible with existing methods in use; and

6) The time period requested in which to conduct the experiment and documentation to show that this is the shortest practical time period in which success or failure can be determined.

d) The Board will review all petitions to conduct experimental practices submitted in accordance with subsection (b) of this Section, Section 28.1 of the Act [415 ILCS 5/28.1], or Subpart D of 35 Ill. Adm. Code 104 and an Agency recommendation regarding the experimental practice under the following assumptions:

1) There is no way in which to conduct the experiment in compliance with all requirements of 35 Ill. Adm. Code 811, 812 or 814;

2) The experiment will be conducted in as short a time as possible if the information submitted in the petition and the Agency recommendation are not in conflict;

3) A monitoring plan to evaluate the experiment will be implemented; and

4) The site of the experiment will be restored to meet all requirements of 35 Ill. Adm. Code 811, 812, or 814, should the experiment fail.

e) Implementation of the Experimental Practice.

 Upon approval of the experimental practice pursuant to subsection (d) of this Section by the Board, the operator must file an application for significant modification of the permit with the Agency pursuant to Subpart B of Section 813. The application must contain the following information:

1) Detailed designs of all items to be constructed for use during the experiment;

2) The monitoring plan to be implemented during the experiment;

3) A plan for decommissioning and closing the experiment;

4) A time schedule for constructing the necessary items and closing, removing, and stabilizing the area upon completion of the experiment;

5) An emergency cleanup plan describing the methods to be used to restore the facility to compliance with all standards in 35 Ill. Adm. Code 811 if the experiment is unsuccessful;

6) Cost estimates and financial assurance (see Subpart G of 35 Ill. Adm. Code 811) in an amount equal to the costs necessary to restore the facility to compliance with Chapter I of 35 Ill. Adm. Code.

f) Evaluation of Experimental Practice.

1) After completion of the experiment, all monitoring data must be submitted to the Agency for evaluation of the experimental practice in accordance with the evaluation criteria included in the adjusted standard petition in accordance with subsection (c)(4) of this Section. The Agency must determine if the experimental practice is acceptable for implementation pursuant to Section 39 of the Act [415 ILCS 5/39], and the following additional criteria:

A) An experimental practice must be considered acceptable for implementation if the monitoring results meet or exceed the evaluation criteria included in the adjusted standard petition in accordance with subsection (c)(4) of this Section; and

B) If the experiment does not cause or contribute to a violation of the Act [415 ILCS 5] or Chapter I of 35 Ill. Adm. Code.

2) Upon completion of the experiment and an Agency determination that the experimental practice is acceptable for implementation, the Agency must return the financial assurance instrument to the operator and, must approve permit modifications allowing the operation of the experimental practice. If the experimental practice is determined to be unacceptable for implementation, then the Agency must return the financial assurance instrument when the facility has been restored to comply with Chapter I of 35 Ill. Adm. Code.

(Source: Amended at 29 Ill. Reg. 5066, effective March 22, 2005)