

ORIGINAL

John Therriault - Re: 35 Ill. Admin. Code 721.106 c(1)RECEIVED
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AUG 04 2010

STATE OF ILLINOIS
Pollution Control Board

From: Mike McCambridge
To: Paschal, Ed
Date: 8/3/2010 8:46 PM
Subject: Re: 35 Ill. Admin. Code 721.106 c(1)
CC: Crowley, Kathleen; Girard, Tanner; Therriault, John; Tipsord, Marie

Pc#3

This provision must be corrected, and I will try to add it to the amendments pending in the recently-proposed R09-16/R10-4 RCRA Subtitle C update docket. (The Notice of Proposed Amendments will appear in the August 6 issue of the Illinois Register.) I will add your e-mail inquiry and my response to the R09-16/R10-4 docket as a public comment, since I hope to add the correction based on your question.

35 Ill. Adm. Code 721.106(c)(1), which provides in pertinent part as follows: "Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of subparts A through L, AA, BB, and CC of parts 264 and 265, and under parts 124, 266, 268, and 270 of this chapter and the notification requirements under section 3010 of RCRA" Subparts A through L, AA, BB, and CC of 40 C.F.R. 264 and 265 correspond with Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 724 and 725. The language used in 35 Ill. Adm. Code 721.6(c)(1), "Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 702, 703, and 705; 724; and Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 725; 726; 728; and the notification requirement under section 3010 of the Resource Conservation and Recovery Act," is wrong.

The two permit-related segments of the federal rules, 40 C.F.R. 124 and 270, correspond with 35 Ill. Adm. Code 702, 703, and 705. The substantive regulations of 40 C.F.R. 266 and 268 correspond with 35 Ill. Adm. Code 726 and 728. Thus, a translation of the above-quoted segment of the federal regulations should literally translate to "Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 724 and 725; 35 Ill. Adm. Code 702, 703, and 705; and 35 Ill. Adm. Code 726 and 728." Since the common practice is to present the citations in numeric order, the part number should appear in the order "702, 703, 705, 724, 725, 726, and 728." Addition of the specified Subparts of Parts 724 and 725 could be done in any of several ways.

I will ask the Board to change this segment of Section 721.106(c)(1) to read as follows: "Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of 35 Ill. Adm. Code 702; 703, 705; Subparts A through L, AA, BB, and CC of 724; Subparts A through L, AA, BB, and CC of 725; 726; and 728, and the notification requirement under section 3010 of the Resource Conservation and Recovery Act." Another possibility is "Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 724 and 725 and 35 Ill. Adm. Code 702, 703, 705, 726, and 728." The Board may adopt a change to some variation of this language. I will request that the Joint Committee on Administrative Rules which its staff prefers before making a suggestion to the Board, since they closely watch the language chosen by State agencies in regulations, and I value their opinion, even where the determination as to what language to use rests with the Board.

The "bottom line" with regard to your question is that the "Subparts A through L, AA, BB, and CC" language relates only to 35 Ill. Adm. Code 724 and 725.

Thank you for asking this question and bringing this problem to my attention.

John Therriault: Please introduce this e-mail as a public comment in docket R09-16/R10-4, as I intend to bring the issue of making this correction into that docket. I will add any response that I receive from JCAR as a segment of this public comment.

Debra Connelly (JCAR): Since the prospect of this amendment and Section 721.106 was not a segment of the proposed amendments (although 35 Ill. Adm. Code 721 is involved), does JCAR have a preference as to how the Board should word the correction? At this time, I am inclined to use the language, "Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 724 and 725 and 35 Ill. Adm. Code 702, 703, 705, 726, and 728."

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>>> "Ed Paschal" <customenv@earthlink.net> 8/3/2010 1:36 PM >>>
Good Afternoon Mike:

Please clarify the meaning of the above referenced section. The wording I have is as follows: (Excuse the formatting)

Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 702, 703, and 705; 724; and Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 725; 726; 728; and the notification requirement under section 3010 of the Resource Conservation and Recovery Act, except as provided in subsection (a) of this Section. (The recycling process itself is exempt from regulation, except as provided in subsection (d) of this Section.)

Sincerely,

Ed Paschal, CHMM
Custom Environmental Services
314-351-6616