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April 24, 2013

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APR 29 2013

STATE OF ILLINOIS
Pollution Control Board

Thomas Holbrook, Chairman
Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

RE: Clean Construction or Demolition Debris Fill Operations (35 Ill. Adm. Code 1100)
36 Ill. Reg. 2801 - 2/24/12
Adopted 36 Ill. Reg. 13892

Dear Chairman Holbrook:

In closing the above referenced file, JCAR Staff discovered some errors in the Board's filed rulemaking.

Section 1100:

- 205(a)(1)(A) & (B) Without having a colon after "operator" and PG" in its original proposal or any amendment, the agency filed a version with the colons. The colons have no apparent purpose.
- (a)(2)(A) The agency omitted a comma after "provide" that was added as a 2nd Notice Agreement.
- (a)(2)(B) The agency adoption resulted in the text "I also certify that the the soil".
- (b)(2)(A) At the end of the 3rd sentence, the agency proposed a cross-reference to "subsection (b)(1)(A)". At adoption, the agency filed "subsection (b)" without having made this change in its 1st Notice Changes or through 2nd Notice Agreement.
- (a)(2)(A)(i) At the end of the subsection, a 2nd Notice Agreement changed "a site" to "an unknown site". The agency adoption omitted this change.

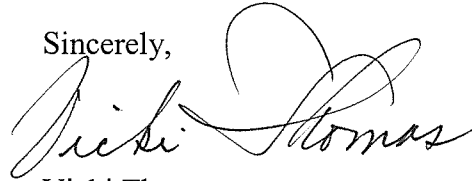
- (a)(3) In the fifth line, the agency adopted a semicolon after "as amended" that should be a comma.
- (b)(4)(A)(iii) The agency adopted an improper semicolon at the end, following "and".
- (c) The agency put on file "ci)". No stricken text should appear in filed pages.
- Subpart C header The agency left the old Subpart C header over Sec. 1100.301 and put the revised Subpart C header over Sec. 1100.304. The correct Subpart header should be over 301, not 304.
- Subpart D header The agency left the old Subpart D header over Sec. 1100.401 and added the revised one over Sec. 1100.412. The correct Subpart header should be over 401, not 412.
- 505 The agency filed an errant period after the colon at the end. The colon is correct.
- (b) In the 3rd line, there should be a space between "Section" and "1100" and no space between "1100" and ".525".
- 610(a) The agency removed the text ", if any," at adoption without making that change through an amendment.
- (c) In the 3rd line, there should be a comma before "USEPA Publication No."
- 615(b) "Section" is missing before "1100.605". It was in the JCAR Agreement but not the agency's filed version.
- (b)(1) "Section" is missing before "1100.605". It was in the JCAR Agreement but not the agency's filed version.
- (b)(2) The agency did not adhere to a JCAR Agreement to change "implementing rules" to the more specific "Section 1100.605".

All of these issues are nonsubstantive. However, it is important that Illinois Administrative Code text be created through the processes prescribed by the IAPA. After a rulemaking is proposed in the Illinois Register, the text can be changed only by 1st Notice Changes or by 2nd Notice Agreements (i.e., amendments). Additionally, a JCAR Certificate of No Objection is based on the text created through these processes. An agency should not be adopting text that is different from that reviewed by JCAR.

JCAR Staff is available at all stages of the process to assist agencies in correcting technical problems with a rulemaking.

The issues listed here can be addressed through the Expedited Correction process or the next time PCB amends this Part. We hope this correspondence helps your agency in keeping track of these issues and in addressing them. If JCAR Staff can be of any assistance in correcting these problems, please contact us at 217/785-2254.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicki Thomas". The signature is fluid and cursive, with a large loop at the end of the last name.

Vicki Thomas
Executive Director

VT:DC:rm

cc: Marie Tipsord