

Kruse, Chad

From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Monday, March 02, 2015 12:58 PM
To: Kruse, Chad
Subject: Docket #15-19 (35 IAC 848)

Dear Mr. Kruse:

After a couple of times through this rulemaking, there were a few questions that I'm still unclear on. If e-mailing responses is easier, that would be great. If you would prefer to discuss over the phone, then that would be fine as well.

Thanks so much for your time and consideration.

Sincerely,

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- 1) 848.104, initial paragraph: "meanings otherwise set forth in the Act and rules and regulations adopted under the Act" → By "rules and regulations adopted under the Act" do you mean Chapter I of Ill. Adm. Code Title 35, or did you have a more specific meaning in mind?
- 2) 848.104, definition of "passenger tire equivalent": "means an average-sized passenger tire weighing 22.5 pounds" → I'm confused:
 - (a) Should this be something like "means 22.5 pounds of waste tire or waste tire equivalent, or the weight of an average-sized passenger tire weighing 22.5 pounds"?
 - (b) How did you arrive at 22.5 pounds? From my cursory comparison, IA, NE, and MO all use 20 pounds; CO uses 22.5 pounds; UT uses 25 pounds. How is this number determined?
- 3) 848.104, definition of "tire storage site": I'm confused by the last exclusion from this definition: "a facility at which tires are sold at retail provided that the facility maintains less than 1300 recyclable tires, 1300 tire carcasses and 1300 used tires on site..." → Does this mean up to 3900 tires as long as there's less than 1300 in any given category or a total of 1300 tires in all categories combined? Also, is this actual tires or passenger tire equivalents?
- 4) 848.104, definition of "waste tire": "*a used tire that has been disposed of* and any portion of such a tire": Does this include for counting purposes (e.g., a waste tire that is cut into 4 pieces would count as 4 waste tires under this definition) or just for purposes of identifying how a waste tire portion should be treated?
- 5) 848.104 → Why were the following definitions omitted from the proposed rule?: "tire retreader" (statutory: "tire retreading facility"), "tire storage unit", "vector" ?
- 6) 848.106:
 - (a) What is the source for these density factors? Why choose less than 10' and more than 10' as the height categories (see <http://www.calrecycle.ca.gov/tires/enforcement/inspections/NumberTires.htm#CubicYards> for an alternate configuration)? Should the age of the pile (and thus how much settling has occurred over the years) be taken into account?

- (b) How high can tires potentially be stacked? Could higher stacks increase the density beyond the factors listed here? Is it possible/desirable to replace these constants with some sort of equation that would allow facilities to more precisely calculate the weight (and thus the number of tire equivalents) in a tire storage unit?
- 7) 848.201(b) and (c): "...located on site at any one time..." → How is this enforced in practice? Routine/surprise inspections? Adding/subtracting totals from shipping manifests? Does "located on site" mean "stored," or could it also mean "in the back of a truck that is idling in the facility parking lot while another truck is being loaded with the tires necessary to make room for the new shipment"?
 - 8) 848.202(a) and 848.400(a), (c)(2) and (c)(3): Why are you replacing these subsections with "[Reserved]" rather than renumbering subsections?
 - 9) 848.203(h)(8): "all applicable federal and State laws and regulations" → which in particular? Since the IAC is designed for use by ordinary citizens, we can't presume that those reading this provision would have a complete picture of the federal and State laws affecting their facility without some help from the text...
 - 10) 848.400(b)(1) and (2): Is the 1992 deadline still relevant, or can it be deleted?
 - 11) 848.410(b): "whose trust operations are regulated and examined by a federal or state agency" → Does the "state agency" need to be an Illinois agency, or are you adjusting the provision to allow other states' regulatory agencies to regulate/examine trust operations (i.e., in a multi-state operation not headquartered in Illinois)?
 - 12) 848.410(f)(4): "...within 60 days after the increase in the removal cost estimate" → Counted how? 60 days after the owner/operator receives word that the estimate has increased? After more tires are added to the storage facility? After EPA determines that there's a problem? I'm confused. Also, how is this subsection going to be enforced?
 - 13) 848.413(d): "Any amounts drawn by the Agency pursuant to the letter of credit must will be deposited..." → Why "must" rather than "shall"?
 - 14) 848.501(a) and (c): Why is "shall" being changed to "must"?
 - 15) 848.602(a)(3)(B) and (C): "...any applicable state or federal law or regulation..." "all other applicable state and federal laws and regulations..." → Any state regulations or just IL? What are the applicable state/federal laws®s?
 - 16) 848.606(a): "...the transporter must place, on opposite sides of the vehicles, a placard..." → Should that be "opposite sides of each vehicle"?
 - 17) 848.702(a): "Each application...must contain all data and information that is reasonably necessary for the Agency to determine..." → What kind of content? This language raises red flags over here about the potential for policy to be kept outside of rule. Is there any way to put the requirements/criteria for consideration&approval in this rule?
 - 18) 848.702(b): "...all information required under these regulations shall be submitted..." → under what part of these regulations? This Subpart? This Part? This Section? Something else?
 - 19) 848.702(e): "...the content required by these rules" → by what sections/subpart(s) of these rules?
 - 20) 848.706(a):
 - a. Are there any contractual issues raised by retroactively revising permits to match PCB regulations, or is this something that's already built into the language of the permit?
 - b. How much notice does the permittee get that a permit is being revised before the new requirements go into effect?