

ILLINOIS POLLUTION CONTROL BOARD
November 19, 2020

IN THE MATTER OF:)
RCRA SUBTITLE C UPDATE, USEPA) R21-6
AMENDMENTS (January 1, 2020 through) (Identical-in-Substance Rulemaking - Land)
June 30, 2020))

Proposed Rule. Withdrawal Order.

OPINION AND ORDER OF THE BOARD (by A. Palivos):

The Board today withdraws amendments proposed but never published in the *Illinois Register*. The Board dismisses this docket because no United States Environmental Protection Agency (USEPA) action during the first half of 2020 requires Board identical-in-substance rulemaking.

On October 1, 2020, the Board proposed amendments based on a January 14, 2020 (85 Fed. Reg. 2234) USEPA action. Before the Board-proposed amendments appeared in the *Illinois Register*, the Board realized that USEPA's action was a proposed rule—an inappropriate subject for identical-in-substance rulemaking.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2018)) requires the Board to adopt hazardous waste rules that are IIS to USEPA's RCRA Subtitle C (42 U.S.C. §§ 6921 *et seq.* (2017)) rules. Section 22.4(a) requires the Board to use the IIS rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2018)). Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 and 5-40 (2018)) do not apply to the Board's adoption of IIS regulations.

Correcting the error of October 1, 2020, the Board withdraws those proposed amendments and dismisses this docket. No USEPA action during the first half of 2020 requires Board identical-in-substance rulemaking.

ORDER

The Board withdraws the opinion and order of October 1, 2020 proposing amendments for public comment and dismisses this docket.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 19, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board