

Mike McCambridge - FW: PCB RCRA rulemaking R07-5/R07-14

From: "Geving, Kim" <Kim.Geving@Illinois.gov>
To: <mccambm@ipcb.state.il.us>
Date: 4/14/2008 10:49 AM
Subject: FW: PCB RCRA rulemaking R07-5/R07-14

R07-5/R07-14
 PCB
 FROM JCAR

Mike, per the conversation below, Deb Connelly has some questions. Could you please shed some light on this. You can reply to me, and I will be happy to relay to her, or you can copy us both. I appreciate your assistance.

Kimberly A. Geving
 Assistant Counsel

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STATE OF ILLINOIS
 Pollution Control Board

From: Connelly, Deborah [mailto:connelly@ilga.gov]
Sent: Monday, April 14, 2008 10:46 AM
To: Geving, Kim
Subject: RE: PCB RCRA rulemaking R07-5/R07-14

35 IAC 102.610(b) Also, *wherever appropriate, the Board regulations will reflect any consistent, **more stringent** regulations adopted pursuant to the rulemaking requirements of Title VII of the Act and Section 5-35 of the Illinois Administrative Procedure Act [415 ILCS 5/7.2(a)(6)].*

Section 5-35 is the lead in section for adopting general, emergency and preemptory rulemakings.

From: Geving, Kim [mailto:Kim.Geving@Illinois.gov]
Sent: Monday, April 14, 2008 10:29 AM
To: Connelly, Deborah
Subject: RE: PCB RCRA rulemaking R07-5/R07-14

No, actually that is not accurate. The Board may adopt more stringent rules in IIS rulemakings. They just cannot be less stringent than the feds. If you look at their opinion dated March 20, 2008 in R07-5/R07-14, pages 10-11, they discuss the section in RCRA that allows states to adopt more stringent rules. I think they may also have something in their procedural rules that discusses this issue, but I am not 100% certain without doing some more research.

Does this help?

Kimberly A. Geving
 Assistant Counsel

From: Connelly, Deborah [mailto:connelly@ilga.gov]
Sent: Monday, April 14, 2008 10:12 AM
To: Geving, Kim
Subject: RE: PCB RCRA rulemaking R07-5/R07-14

I understand the need for the change, what I don't understand is why you're suggesting more stringent language for an identical in substance rulemaking when PCB said it's only allowed in a general rulemaking.

From: Geving, Kim [mailto:Kim.Geving@Illinois.gov]

Sent: Monday, April 14, 2008 10:09 AM
To: Connelly, Deborah
Subject: RE: PCB RCRA rulemaking R07-5/R07-14

The reason we wanted this change is that Section 20.1 of the EPAct requires the Agency to compile and make available an annual report regarding certain hazardous waste operations. If we are only receiving biennial reports from facilities, we cannot effectively put together our annual reports. Additionally, the financial assurance requirements in Section 727.240(c) require annual updates to account for inflation. Again, in order to check compliance with that requirement we would need annual cost estimates from facilities.

I hope this answers your question.

Kimberly A. Geving
Assistant Counsel

From: Connelly, Deborah [mailto:connelly@ilga.gov]
Sent: Monday, April 14, 2008 9:58 AM
To: Geving, Kim
Subject: PCB RCRA rulemaking R07-5/R07-14

Kim:

Regarding your proposal that 35 IAC 727.170(f)(1) be changed to require an annual report. This is a more stringent requirement than USEPA's required biennial report. In its 4/18/02 Opinion on R02-1/R02-12/R02-17, PCB stated that it could adopt rules more stringent than federal RCRA rules only in a general rulemaking proceeding under 415 ILCS 5/22.4(b) and 27. Why is EPA asking for this change in an identical in substance rulemaking?

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