

ILLINOIS POLLUTION CONTROL BOARD  
November 19, 1992

IN THE MATTER OF: )  
 )  
RCRA UPDATE, USEPA REGULATIONS ) R92-10  
(1/1/92 - 6/30/92) ) (Identical in Substance  
 ) Rules)

RE: USEPA CORRECTION OF OCTOBER 30, 1992

ORDER OF THE BOARD (by J. Anderson):

The Board adopted a proposed opinion and order in this RCRA update docket on October 16, 1992. The proposed rules appeared in the Illinois Register on November 6, 1992, at 16 Ill. Reg. 16770. Public comment is due by December 21, 1992.

The R92-10 proposal presently includes a new Section 721.103(e), which adds an April 28, 1993, "sunset provision" for the "mixture and derived from" rules in Sections 721.103(a)(2)(D) and (c)(2)(A). This was derived from 40 CFR 261.3(e), which was added at 57 Fed. Reg. 7632 and 23063, March 3 and June 1, 1992. However, USEPA has repealed the sunset provision at 57 Fed. Reg. 49278, October 30, 1992.

If the Board were to delay proposing the repeal of the sunset provision until the next update docket dealing with USEPA actions between July 1 and December 31, 1992, it would risk being unable to take final action until after April 28, 1993. This could result in a temporary, but major difference between the USEPA and Board rules.

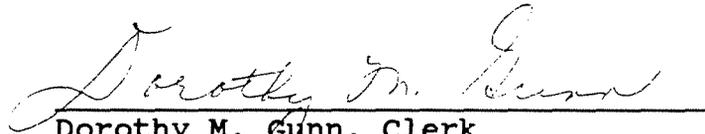
Section 7.2 of the Environmental Protection Act limits identical in substance batch periods to no more than six months. The October 30, 1992, repeal of the sunset provision is outside the batch period for R92-10, which began on January 2, 1992. However, the Board frequently addresses USEPA corrections with the original adoption of the equivalent rule, even if the corrections fall outside the batch period. The Board does not construe Section 7.2 as requiring it to adopt incorrect USEPA rules pending the proper batch period.

0137-0497

Therefore, the Board intends to drop proposed Section 721.103(e) in this R92-10 proceeding. Please note that this order will not extend the public comment period discussed above.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 19<sup>th</sup> day of November, 1992, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board