

ILLINOIS POLLUTION CONTROL BOARD
August 31 1989

IN THE MATTER OF:)
)
SAFE DRINKING WATER ACT) R88-26
REGULATIONS)

ORDER OF THE BOARD (by J. Anderson):

Section 17.5 of the Environmental Protection Act (Act) requires the Board to adopt regulations which are "identical in substance" with USEPA public water supply rules adopted pursuant to the federal Safe Drinking Water Act (SDWA). The term "identical in substance" has recently been defined in Section 7.2 of the Act. Section 7.2(b) of the Act requires the Board to adopt a rule within one year of adoption of the federal rule, unless the Board extends the time based on a finding that the time is insufficient and stating the reasons. It appears that the regulations in this Docket will arguably be late. The Board is therefore entering this Order to extend the time.

The USEPA SDWA rules are in 40 CFR 141 et seq. These have been the subject of numerous recent amendments, including two major amendments on June 29, 1989 (54 Fed. Reg. 27526 and 27562). It is not immediately obvious at what time the USEPA rules have or will become, as a matter of federal law, ripe for adoption as State rules. However, the Board intends in September, 1989, to propose rules for public comment, and in December, 1989, to adopt rules corresponding with USEPA rules through June 30, 1989.

Many of the USEPA rules involved date back to December 24, 1975, long before the mandates of Sections 7.2 and 17.5 of the Act. It is impossible to literally comply with the time requirements with respect to initial adoption of an already ongoing federal program. Also, the initial adoption of a program often involve a far greater effort.

For example, the SDWA rulemaking is currently delayed by the problem of placing the incorporations by reference into a format which meets requirements of Section 6.02 of the Illinois APA. The Board has identified approximately 45 references which need to be completed or corrected to meet APA requirements. The Board anticipates that the rules should be adopted prior to December 31, 1989.

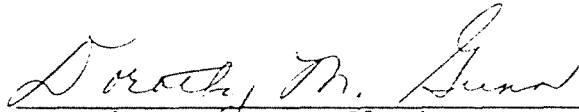
The Board also notes that the number of federally-driven programs involving large blocks of rules has suddenly expanded

from two (RCRA and UIC) to at least five (by addition of Pretreatment, UST, and SDWA). The Board has recently received added funding for expansion of staff to manage these large rulemakings; the Board believes that it will be able to return to schedule as its expanded staff gains experience.

The Board directs that these reasons be published in the Illinois Register pursuant to Section 7.2 of the Act.

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 31st day of August, 1989, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board