

ILLINOIS POLLUTION CONTROL BOARD
October 19, 2017

IN THE MATTER OF:

RCRA SUBTITLE D (MUNICIPAL SOLID WASTE LANDFILL) UPDATE, USEPA AMENDMENTS (July 1, 2016 through December 31, 2016))	R17-14 (Identical-in-Substance Rulemaking - Land)
)	
RCRA SUBTITLE C UPDATE, USEPA AMENDMENTS (July 1, 2016 through December 31, 2016 and August 29, 2017))	R17-15 (Identical-in-Substance Rulemaking - Land) (Consolidated)
)	

Proposed Rule. Consolidation and Deadline Extension.

ORDER OF THE BOARD (by C.K. Zalewski):

The Board finds that it would be beneficial to consolidate these two rulemaking dockets. The Board also finds that it is necessary to extend—until June 1, 2018—the deadline for completing the rulemakings. In this order, the Board, on its own motion, consolidates the dockets, extends the deadline, and provides the reasons for doing so.

CONSOLIDATION OF DOCKETS

On November 28, 2016, the United States Environmental Protection Agency (USEPA) adopted the “Hazardous Waste Generator Improvements Rule” (GIR). The GIR extensively revised the Resource Conservation and Recovery Act (RCRA) Subtitle C (42 U.S.C. §§ 6921 *et seq.* (2015)) standards applicable to generators of hazardous waste, affecting nearly all parts of USEPA’s hazardous waste management rules: 40 C.F.R. 260-268, 270, 273, and 279 (2016). The GIR further affected three provisions in the non-hazardous RCRA Subtitle D (42 U.S.C. §§ 6941 *et seq.* (2015)) Municipal Solid Waste Landfill (MSWLF) regulations in 40 C.F.R. 258 (2016). *See* 81 Fed. Reg. 85732 (Nov. 28, 2016).

Consolidating the RCRA Subtitle D amendments (docket R17-14) with the RCRA Subtitle C amendments (docket R17-15) would conserve Board resources and ensure proper implementation of both segments of the GIR requirements. The GIR amendments to the RCRA Subtitle D MSWLF rules are intimately associated with the GIR amendments to the RCRA Subtitle C hazardous waste requirements. Proper implementation of the MSWLF and hazardous waste amendments would require simultaneous effective dates for all amendments to all parts of the rules. For these reasons, the Board consolidates the two dockets.

ORIGINAL DEADLINE FOR FINAL BOARD ACTION

Under Section 7.2(b) of the Environmental Protection Act (Act) (415 ILCS 5/7.2(b) (2016)), the deadline for the Board to complete either the RCRA Subtitle D MSWLF rulemaking or the RCRA Subtitle C hazardous waste rulemaking is based on USEPA’s November 28, 2016

GIR. This was the earliest federal amendment included in either R17-14 or R17-15. As the Board's deadline is one year from that date, the Board must file its final amendments with the Office of the Secretary of State (SOS) by November 28, 2017. To meet this deadline, the Board would have had to adopt a proposal for public comment no later than September 7, 2017. The Board has not been able to do so.

REASONS FOR DELAY AND EXTENSION OF DEADLINE

The Board encountered delays in developing a proposal for public comment. Recent identical-in-substance rulemakings have imposed significant demands on Board resources. The significant and voluminous amendments in the pending proceeding, SDWA Update, USEPA Amendments (July 1, 2016 through December 31, 2016), R17-12 (June 22, 2017) (proposal for public comment), delayed work on these rules. Further, the federal hazardous waste amendments of November 28, 2016, which include the "Hazardous Waste Export-Import Revisions," along with the GIR, are voluminous, extensively revise the hazardous waste generator requirements, and affect almost all parts of the hazardous waste rules. Incorporating these amendments into the Illinois rules has been requiring considerable effort.

For these reasons, the Board finds that delay was unavoidable and a deadline extension until June 1, 2018 is necessary to complete these amendments. To meet this extended deadline, the Board plans to follow the schedule below:

Extended deadline:	June 1, 2018
Board vote to propose amendments:	February 8, 2018
Submission for <i>Illinois Register</i> publication:	February 12, 2018
Probable <i>Illinois Register</i> publication:	February 23, 2018
Probable end of 45-day public comment period:	April 9, 2018
Board vote to adopt amendments:	April 19, 2018
End of 30-day hold period for USEPA review:	May 21, 2018
Probable SOS filing, amendments take effect:	May 28, 2018
Probable <i>Illinois Register</i> publication:	June 9, 2018

Under Section 7.2(b) of the Act, the Board extends—until June 1, 2018—the deadline for filing final amendments with the SOS. The Board also directs staff to cause *Illinois Register* publication of a "Notice of Public Information on Proposed Rules" that, based on this order, gives the reasons for delay and extends the deadline.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 19, 2017, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board