

ILLINOIS POLLUTION CONTROL BOARD

July 11, 2024

IN THE MATTER OF:

RCRA SUBTITLE C UPDATE, USEPA)	R24-12
AMENDMENTS (July 1, 2023 through)	(Identical-in-Substance Rulemaking - Land)
December 31, 2023))	

Proposed Rule. Proposal For Public Comment.

OPINION AND ORDER OF THE BOARD (by M. Gibson and J. Van Wie):

Today, the Board proposes amendments to the Illinois hazardous waste rules for public comment. The proposed amendments include United States Environmental Protection Agency (USEPA) updates to Subtitle C of the Resource Conservation and Recovery Act (RCRA) and additional, limited non-substantive corrections identified by the Board.

This is an “identical in substance” rulemaking. Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2022)) requires the Board to adopt hazardous waste rules identical in substance to the USEPA’s RCRA (42 U.S.C. § 6901 et seq. (2022)) Subtitle C regulations. 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) (2022)). 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 (2022)) do not apply to the Board’s adoption of IIS regulations.

In this opinion and order, the Board first extends the due date for final action on the amendments and sets a timetable to complete this rulemaking. Next, it identifies the USEPA actions that require this IIS rulemaking. Finally, the Board invites public comment on the proposed amendments for 45 days before it proceeds to final adoption in *The Illinois Register* before November 1, 2024. The text of the Board’s proposed amendments is appended to this opinion and order.

EXTENSION OF DUE DATE AND REASONS FOR DELAY

The Board finds it necessary to set forth the reasons for delay and extend the due date for final Board adoption of amendments.

Under Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2022)), the Board must complete this rulemaking within one year after the corresponding federal action. Based on the date of the USEPA action, the Board’s deadline to adopt final rules in this docket is August 9, 2024. The Board finds it necessary to extend the date for completion until November 1, 2024.

The Board encountered unanticipated delay in developing this proposal for public comment because the Board staff member who has worked on IIS rules, including hazardous waste updates, for nearly 30 years recently retired. This has required the remaining Board staff to take over review of this IIS rule, which is a complex and time-consuming process. Additionally, the large volume of text and effort needed to review the Board's rules required significant time. The Board now anticipates adopting these proposed amendments no later than November 1, 2024. Therefore, the Board extends the deadline until that date.

TIMETABLE TO COMPLETE RULEMAKING

Adopting this proposal for public comment today will allow the Board to complete this rulemaking by November 1, 2024, barring unforeseen delays. The Board intends to adhere to the following schedule:

Board order proposing amendments:	July 11, 2024
Submission for <i>Illinois Register</i> publication:	July 19, 2024
Estimated <i>Illinois Register</i> publication:	August 2, 2024
Estimated End of 45-day public comment period:	September 16 2024
Board order adopting amendments:	October 3, 2024
Estimate of when rules take effect:	October 4, 2024
Estimated <i>Illinois Register</i> publication:	October 18, 2024

SUMMARY OF PROPOSED AMENDMENTS

Federal Actions Implemented

August 9, 2023 (88 FR 54086)

The USEPA issued a direct final rule effective December 7, 2023, with comprehensive non-substantive corrections and technical revisions to clarify provisions in the Generator Improvements, Pharmaceuticals, and Definition of Solid Waste rules in RCRA Subtitle C. The USEPA corrected typographical errors, incorrect citations, and ambiguous language in the three rules. The Board proposes amendments to the Illinois hazardous waste rules to reflect the USEPA's updates.

December 6, 2023 (88 FR 84710)

The USEPA withdrew eight non-substantive and technical revisions amended in the RCRA Subtitle C Generator Improvements, Pharmaceuticals, and Definition of Solid Waste rules published on August 9, 2023 (88 FR 54086) due to adverse public comments. The Board withdrew the revisions to reflect the USEPA's final amendments effective December 7, 2023.

PUBLIC COMMENTS

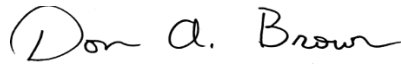
The Board requests comments on the proposed amendments. The Board will receive public comments on this proposal for 45 days following its publication in the *Illinois Register*.

After that time, the Board will immediately consider adopting final amendments, making any necessary changes made evident through the public comments. The Board expects to file any adopted rules with the Secretary of State immediately after adoption, likely by November 1, 2024, according to the timetable above.

ORDER

The Board directs the Clerk to provide notice in the *Illinois Register* of the appended proposed amendments to the Illinois hazardous waste rules.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 11, 2024, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board