

ILLINOIS POLLUTION CONTROL BOARD  
December 21, 2006

IN THE MATTER OF: )  
)  
SDWA UPDATE, USEPA AMENDMENTS ) R07-2  
(January 1, 2006 though June 30, 2006) ) (Identical-in-Substance  
) Rulemaking - Public Water Supply)

IN THE MATTER OF: )  
)  
SDWA UPDATE, USEPA AMENDMENTS ) R07-11  
(July 1, 2006 though December 31, 2006) ) (Identical-in-Substance  
) Rulemaking - Public Water Supply)

ORDER OF THE BOARD (by T.E. Johnson):

The Board today consolidates two dockets containing related amendments and extends the deadline for completion of amendments in the consolidated docket. The consolidated docket concerns Illinois regulations that are “identical in substance” to drinking water regulations adopted by the United States Environmental Protection Agency (USEPA). The USEPA rules implement Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. §§ 300g-1(a), 300g-3(c), 300g-6(a), and 300j-4(a) (2002)).

The Board also finds that extension of the completion deadline is necessary for this consolidated docket under Section 7.2(b) of the Environmental Protection Act (Act), 415 ILCS 5/7.2(b) (2004). The final date for Board completion of the amendments is extended from January 4, 2007 to April 30, 2007.

**SUBSTANCE OF THE RULES AND THE ORIGINAL TIMETABLE**

**The Federal Rules Involved in SDWA Update Docket R07-2**

The Board reserved docket R07-2 on May 16, 2006, to accommodate federal SDWA amendments that USEPA adopted in the period January 1, 2006 though June 30, 2006. During this period, USEPA adopted two significant new rules and three sets of corrections to those rules. Those federal amendments to the National Primary Drinking Water Regulations are briefly described as follows:

**71 Fed. Reg. 388 (January 4, 2006)**

Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR): The DBPR regulates drinking water disinfection practices and the content of disinfection byproducts in drinking water. The Stage 2 DBPR is intended to further reduce the risks of cancer and reproductive and other health effects associated with disinfection byproducts. The Stage 2 rule includes maximum contaminant level standards and monitoring, reporting, and public notification requirements for these contaminants. The Stage 2 rule applies to any

community water supply or non-transient, non-community water system that adds a disinfectant other than ultraviolet light to drinking water. The Stage 2 DBPR is an extension of the existing Stage 1 DBPR, adopted by USEPA on December 16, 1998 (at 63 Fed. Reg. 69390), and by the Board on July 22, 1999 (in docket R99-12). The DBPR is a companion to the Enhanced Surface Water Treatment Rule (see the entry below for the January 5, 2006 USEPA action). The federal amendments include corrections to existing regulations and to the existing Stage 1 DBPR.

**71 Fed. Reg. 654 (January 5, 2006)**

Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR): The LT2ESWTR requires the use of treatment techniques and imposes monitoring, reporting, and public notification requirements on all systems that use surface water as a source of raw water. USEPA intends that the rule protect against *Cryptosporidium* and other microbial contaminants, like *Giardia lamblia*. The LT2ESWTR is an extension of earlier rules pertaining to treatment of surface water that USEPA has adopted. USEPA adopted the Surface Water Treatment Rule (SWTR) on June 29, 1989 (at 54 Fed. Reg. 27486), which the Board adopted on May 24, 1990 (in docket R88-26). USEPA then adopted the Interim Enhanced Surface Water Treatment Rule (IESWTR) on December 16, 1998 (at 63 Fed. Reg. 69478), which the Board adopted together with the Stage 1 DBPR (see the entry for the USEPA action on July 4, 2006, above) on July 22, 1999 (in docket R99-12). Later, USEPA adopted the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) on January 14, 2002 (67 Fed. Reg. 1812), which the Board adopted on December 19, 2002 (in docket R03-4). The LT2ESWTR is a companion to the Stage 2 DBPR (see the entry for the USEPA action of January 4, 2006, above).

**71 Fed. Reg. 4644 (January 27, 2006)**

USEPA corrected the January 4, 2006 Stage 2 DBPR.

**71 Fed. Reg. 4968 (January 30, 2006)**

USEPA corrected the January 5, 2006 LT2ESWTR.

**71 Fed. Reg. 6136 (February 6, 2006)**

USEPA again corrected the January 5, 2006 LT2ESWTR.

**71 Fed. Reg. 37168 (June 29, 2006)**

USEPA again corrected the January 4, 2006 Stage 2 DBPR.

**The Federal Rules Involved in SDWA Update Docket R07-11**

The Board has reserved docket R07-11 to accommodate federal SDWA amendments that USEPA adopted in the period July 1, 2006 through December 31, 2006. During this period, USEPA has so far adopted one significant new rule and one set of corrections to that rule. Those federal amendments are briefly described as follows:

**71 Fed. Reg. 65574 (November 8, 2006)**

USEPA adopted the Ground Water Rule (GWR). The federal GWR amendment to the

National Primary Drinking Water Regulations is effective January 8, 2007. The GWR is intended to increase protection against microbial pathogens in public water systems that use ground water sources. The GWR requires disinfection as a treatment technique for all public water systems, including surface water systems and ground water systems, as necessary. The GWR targets ground water systems that are susceptible to fecal contamination, instead of requiring disinfection for all ground water systems. The GWR requires ground water systems that are at risk of fecal contamination to take corrective action to reduce cases of illnesses and deaths due to exposure to microbial pathogens.

**71 Fed. Reg. 67427 (November 21, 2006)**

USEPA corrected the references to analytical methods for use under GWR.

**The Original Timetable for Completion of the Amendments**

Sections 7.2 and 17.5 of the Act (415 ILCS 5/7.2 and 17.5 (2004)) provide for quick adoption by the Board of regulations that are identical in substance to federal regulations that USEPA adopts to implement Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the federal SDWA. Section 17.5 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 (2004)) do not apply to the Board's adoption of identical-in-substance regulations. Section 7.2(b) requires that "the Board shall complete its rulemaking proceedings within one year after the adoption of the corresponding federal rule." 415 ILCS 5/7.2(b) (2004). In the instance of the present docket, that date would be January 4, 2007, one year from the earliest federal amendments involved. In order to meet that deadline, the Board must have fulfilled the following action dates:

<b>Due date:</b>	<b>January 4, 2007</b>
<b>Proposal adopted date:</b>	<b>October 5, 2006</b>
Publication submission deadline:	October 16, 2006
<i>Illinois Register</i> publication date:	October 27, 2006
End of 45-day public comment period:	December 11, 2006
<b>Adoption date:</b>	<b>December 21, 2006</b>
Possible filing <b>and effective</b> date:	January 2, 2007
Possible <i>Illinois Register</i> publication date:	January 12, 2007

**BOARD CONSOLIDATION OF THE TWO SDWA UPDATE DOCKETS**  
**R07-2 AND R07-11**

The Board today consolidates the two SDWA update dockets, R07-2 and R07-11. The subject matters of the amendments involved in the two dockets are related. Although each of the three significant new federal rules involved will separately require the addition of one or two new Subparts to the regulations, each new rule includes amendments to the existing rules. Some of those amendments to the existing rules involve amendments to the same provisions--*i.e.*, there is some overlap in the provisions involved in the three rules.

The Board finds that consolidation of the two dockets is desirable. Consolidation will avoid unnecessary duplication of effort, conserve review time for the regulated community, the public, and Board and Illinois Environmental Protection Agency staff, and it will expedite adoption of all of the amendments.

**EXTENSION OF THE TIME FOR COMPLETION OF THE PRESENT  
AMENDMENTS**

Section 7.2(b), however, further provides for extension of the deadline for final Board action as follows:

The one-year period may be extended by the Board for an additional period of time if necessary to complete the rulemaking proceeding. In order to extend the one-year period, the Board must make a finding, based upon the record in the rulemaking proceeding, that the one-year period is insufficient for completion of the rulemaking, and such finding shall specifically state the reasons for the extension. Except as otherwise provided above, the Board must make the finding that an extension of time is necessary prior to the expiration of the initial one-year period, and must also publish a notice of extension in the Illinois Register as expeditiously as practicable following its decision, stating the specific reasons for the Board's decision to extend. 415 ILCS 5/7.2(b) (2004).

The deadline for final Board action in this consolidated docket is January 4, 2007, which is one year from the earliest amendments involved.

The Board finds it necessary to extend the one-year period for completion of the present amendments. The Board finds the statutory one-year period in this consolidated docket is insufficient for completion of the amendments. The Board was unable to initiate this rulemaking earlier due to the unusually high demands on staff resources over the last several months as a result of a greatly increased volume of complex federal rulemaking, *e.g.*, the very recently completed consolidated underground injection control, municipal solid waste landfill, and hazardous waste update docket, R06-16/R06-17/R06-18. In addition, the Board expects this to be a lengthy rulemaking involving significant new rules and amendments to existing rules, involving approximately 70 sections of the rules.

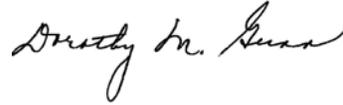
The Board presently anticipates that completion of the amendments in this docket can occur by April 30, 2007, according to the following projected action dates:

<b>Proposal adopted date:</b>	<b>February 1, 2007</b>
Publication submission deadline:	February 12, 2007
<i>Illinois Register</i> publication date:	February 23, 2007
End of 45-day public comment period:	April 9, 2007
<b>Adoption date:</b>	<b>April 19, 2007</b>
Possible filing <b>and effective</b> date:	April 30, 2007
Possible <i>Illinois Register</i> publication date:	May 10, 2007

The Clerk of the Board will cause publication of a notice of this extension to appear in the *Illinois Register* that sets forth the foregoing explanation for the extension.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 21, 2006, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board