

ILLINOIS POLLUTION CONTROL BOARD
April 19, 2007

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 finds that a second 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 April 30, 2007 to August 6, 2007.

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).

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 original deadline for final Board action in this consolidated docket was January 4, 2007, which was one year from the earliest amendments involved. By an order dated December 21, 2006, the Board found it necessary to extend the deadline until April 30, 2007. The Board stated as follows:

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. SDWA Update, USEPA Amendments (January 1, 2006 through June 30, 2006), R07-2, and SDWA Update, USEPA Amendments (July 1, 2006 through December 31, 2006), R07-11 (Dec. 26, 2006).

The Board has worked with all due diligence to prepare the proposal for public comment, but was unable to prepare the proposal for public comment by February 1, 2007, which was the date by which the Board must have adopted the proposal in order to complete the rulemaking by April 30, 2007. Preparation of the proposal, however, has taken more time than originally estimated on December 26, 2006. The federal rules have proven far more complex and voluminous than originally estimated. With preparation of the text of the amendments nearly complete, the incomplete draft text of the proposal for public comment is nearly 300 pages in length, including more than 125 pages of new rules.

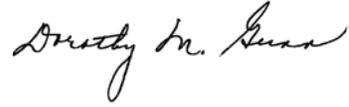
The Board presently anticipates that completion of the amendments in this docket can occur by August 6, 2007, according to the following projected action dates:

Proposal adopted date:	May 3, 2007
Publication submission deadline:	May 14, 2007
<i>Illinois Register</i> publication date:	May 25, 2007
End of 45-day public comment period:	July 9, 2007
Adoption date:	July 26, 2007
Possible filing and effective date:	August 6, 2007
Possible <i>Illinois Register</i> publication date:	August 17, 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 April 19, 2007, by a vote of 3-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board