

ILLINOIS POLLUTION CONTROL BOARD

November 4, 2010

IN THE MATTER OF:)	
SDWA UPDATE, USEPA AMENDMENTS	)	R10-1
(January 1, 2009 through June 30, 2009)	)	(Identical-in-Substance
	)	Rulemaking - Public Water Supply)
)	
SDWA UPDATE, USEPA AMENDMENTS	)	R10-17
(July 1, 2009 through December 31, 2009)	)	(Identical-in-Substance
	)	Rulemaking - Public Water Supply)
)	
SDWA UPDATE, USEPA AMENDMENTS	)	R11-6
(January 1, 2010 through June 30, 2010)	)	(Identical-in-Substance
	)	Rulemaking - Public Water Supply)
	)	(Consolidated)

Proposed Rule. Deadline Extension.

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

SUMMARY OF THIS ACTION

By this order, the Board extends until December 30, 2010 the deadline by which the Board must complete rulemaking in these dockets.

Sections 7.2 and 17.5 of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 17.5 (2008)) provide for quick adoption by the Board of regulations that are identical in substance to federal regulations that the United States Environmental Protection Agency (USEPA) adopts to 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) (2006)). The USEPA National Primary Drinking Water Regulations (NPDWRs) implement Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the federal SDWA (42 U.S.C. §§ 300g-1(a), 300g-3(c), 300g-6(a), and 300j-4(a) (2006)). The federal SDWA regulations are found at 40 C.F.R. 141 through 143. Section 17.5 also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2008)) do not apply to the Board's adoption of identical-in-substance regulations.

The Board reserved docket R10-1 to accommodate amendments to the Illinois regulations that are "identical in substance" to drinking water regulations adopted by USEPA during the period January 1, 2009 through June 30, 2009. The Board reserved docket R10-17 to accommodate possible amendments to the Illinois regulations that are "identical in substance" to drinking water regulations adopted by USEPA during the period July 1, 2009 through December 31, 2009. Finally, the Board reserved docket R11-6 to accommodate possible amendments to the

Illinois regulations that are “identical in substance” to drinking water regulations adopted by USEPA during the period January 1, 2010 through June 30, 2010. USEPA amended the federal regulations in each of these periods, on June 29, 2009, August 3, 2009, October 19, 2009, November 10, 2009, December 2, 2009, and June 8, 2010.

Under Section 7.2 of the Act (415 ILCS 5/7.2(b) (2008)), the Board must complete this rulemaking within one year of the date of the earliest set of federal amendments considered in this docket. USEPA adopted the earliest federal amendments that required Board attention on June 29, 2009. Accordingly, absent extension, the deadline for Board adoption of these amendments would be June 29, 2010. By and order dated June 17, 2010, the Board found reasons for delay and extended this deadline until November 15, 2010.

The Board adopted a proposal for public comment in this matter on August 5, 2010. The Notice of Proposed Amendments appeared in the October 8, 2010 issue of the *Illinois Register*, at 34 Ill. Reg. 14841. This publication of the Notice of Proposed Amendments began the public comment period, which will end on November 22, 2010—after the current extended due date of November 15, 2010. Thus, a second extension of the due date for final Board action will be necessary, until December 30, 2010.

REASONS FOR DELAY AND EXTENSION OF DUE DATE

The Board has been as yet unable to complete a rulemaking proposal for public comment based on the USEPA actions. Section 7.2 of the Act (415 ILCS 5/7.2(b) (2008)) further provides that the Board can enter an order finding that compliance with the statutory due date for final action was not possible and stating the reasons.

The Board finds that meeting the November 15, 2010 deadline for final action was not possible. The Board states the reasons for delay as follows:

The publication of the Notice of Proposed Amendments was delayed for a few weeks for two reasons. First, the Board encountered a greater than usual number of minor corrections and clarifications were needed in the base text of the rules. This involved a thorough review of all of the analytical methods available from USEPA and of many available from other sources. Making the corrections further required itemized documentation of the changes into tables that spanned more than 100 pages of the opinion and order. Further, concurrent work on the final opinion and order in another identical-in-substance rulemaking, RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16 and RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (Oct. 7, 2010) (consolidated), slowed work on submitting the proposed amendments to the Office of the Secretary of State.

For the foregoing reasons, the Board extends the rule completion deadline from November 15, 2010 until December 30, 2010 pursuant to Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)).

TIMETABLE FOR COMPLETION OF THIS RULEMAKING

Completing the amendments before December 30, 2010 will require the Board to progress to final adoption according to the following schedule:

Extended Due date:	December 30, 2010
Date Board voted to propose amendments:	August 5, 2010
Submitted for <i>Illinois Register</i> publication:	September 20, 2010
<i>Illinois Register</i> publication date:	October 8, 2010
End of 45-day public comment period:	November 22, 2010
Likely date of Board vote to adopt amendments:	December 2, 2010
Probable filing and effective date:	December 13, 2010
Probable <i>Illinois Register</i> publication date:	December 23, 2010

IT IS SO ORDERED

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 4, 2010, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board