

ILLINOIS POLLUTION CONTROL BOARD
October 16, 1997

IN THE MATTER OF:)
)
RCRA UPDATE, USEPA REGULATIONS) R96-10
(July 1, 1995, through December 31, 1995)) (Identical-in-Substance Rules)

IN THE MATTER OF:)
)
UIC UPDATE, USEPA REGULATIONS) R97-3
(January 1, 1996, through June 30, 1996)) (Identical-in-Substance Rules)

IN THE MATTER OF:)
)
RCRA UPDATE, USEPA REGULATIONS) R97-5
(January 1, 1996, through June 30, 1996)) (Identical-in-Substance Rules)

ORDER OF THE BOARD (by K.M. Hennessey):

Pursuant to Section 13(c) and 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/13(c) & 22.4(a) (1992)), the Board is preparing to adopt amendments to the Resource Conservation and Recovery Act Subtitle C (RCRA Subtitle C) hazardous waste and Safe Drinking Water Act (SDWA) underground injection control (UIC) regulations. By this order, the Board sets forth reasons for delay as to the amendments.

REASONS FOR DELAY

Section 22.4(a) provides for quick adoption of regulations that are “identical in substance” to federal regulations adopted by the U.S. Environmental Protection Agency (USEPA) to implement Sections 3001 through 3005 of the Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C, 42 U.S.C. §§ 6921-6925). Section 7.2(a) of the Act requires the Board to complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) allows the Board to extend the deadline for adoption by publication of a notice of reason for delay in the *Illinois Register*. The Board hereby sets forth the reasons for delay for the purposes of such an extension of time.

On October 17, 1996, the Board adopted an order in this matter that set forth the reasons for delay. That order set forth the reasons as follows:

Due to the present and recent-past demands on Board resources and personnel, including those associated with completing the two prior updates,

R95-4/R95-6 and R95-20, the Board has been unable to commence the amendments in dockets R96-10 and R97-5 in such a way that it has been able to complete rulemaking activities within one year. The amendments involved in dockets R95-4/R95-6 and R95-20 represented significant efforts on the part of the Board, given the magnitude of the amendments and competing priorities for the Board and its staff. Those amendments, the magnitude of the amendments involved in consolidated docket R96-10/R97-3/R97-5, and other competing priorities have resulted in unavoidable delay.

On May 1, 1997, the Board again found it necessary to set forth reasons for delay. That order added the following reasons:

In addition to the reasons for previous delay, the Board has encountered others. Principally, these deal with the format in which federal amendments are submitted to the public. The federal Government Printing Office, which prints the *Federal Register* and the *Code of Federal Regulations*, does not require federal agencies to highlight the exact text of their amendments, as is required in Illinois by the Secretary of State for publication in the *Illinois Register*. Rather than omit unaffected segments of text from certain sections under amendment, USEPA simply printed the entire text of the massive tables to 40 CFR 268.40 and 268.48 and nearly the entire revised text of 40 CFR 264, subpart CC and 265, subpart CC that it had amended. As a result, the Board must compare the text of the federal amendments with the prior version on a line-by-line basis, which has proven much more time-consuming than originally estimated.

The Board adopted a proposal for public comment in this matter on July 24, 1997. Notices of Proposed Amendments appeared in the August 8, 1997, issue of the *Illinois Register*, at 21 Ill. Reg. 10218 (Part 738), 10235 (Part 720), 10251 (Part 721), 10342 (Part 725), 10492 (Part 728), 10648 (Part 702), 10667 (Part 703), 10699 (Part 723), 10712 (Part 722), 10742 (Part 724), 10851 (Part 726), 10863 (Part 739), and 10878 (Part 733). The public comment period ended after September 22, 1997, and the Board has been diligently working since that time to prepare an opinion and order to adopt the amendments. Due to the extreme volume of the amendments, this work has taken more time than originally anticipated.

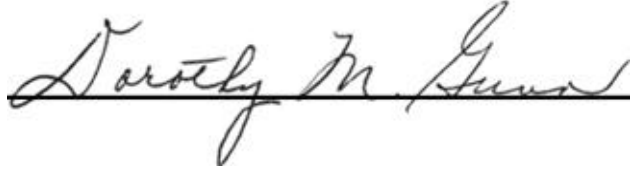
The Board presently expects to consider an opinion and order at our November 6, 1997, meeting, in order to adopt the amendments. The Board must then delay filing the amendments with the Secretary of State for 30 days, pursuant to an agreement with USEPA, in order to allow USEPA Region V an opportunity to review the amendments before filing. This will allow the Board to file the regulations on or about December 6, 1997, when they would become effective.

The Board will cause a copy of the above segment of this proposed opinion to be

published in the *Illinois Register*, as required by Section 7.2(b) of the Act.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 16th day of October 1997, by vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board