

ILLINOIS POLLUTION CONTROL BOARD
March 25, 1993

IN THE MATTER OF:)
)
CONTINGENCY PLAN UPDATE) R92-18
(USEPA RULES THROUGH) (Identical in Substance
12/31/92)) Rules)

EXTENSION OF TIME

ORDER OF THE BOARD (by J. Anderson):

On December 3, 1992, the Board issued an order pursuant to Sections 7.2 and 22.7 of the Environmental Protection Act (Act). (415 ILCS 5/7.2(b) and 5/22.7 (1992)).¹ In that order, the Board found that the time was insufficient in which to comply with the sections' one-year adoption requirement, and anticipated completion of this rulemaking by April 1, 1993. The Board today again finds that it must extend the deadline.

For the reasons stated below, the Board cannot specify an anticipated completion deadline, due to the current pendency of legislation seeking to amend the statutory mandate that will directly affect the scope of this rulemaking.

On October 1, 1992, the Board opened this Docket for the purpose of updating the State contingency plan (Contingency Plan) regulations contained in 35 Ill. Adm. Code 750. The contingency plan regulations are patterned after the United States Environmental Protection Agency (USEPA) regulations found in 40 CFR 300 which implement Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" and also commonly referred to as the "Superfund Act"). The Board's contingency plan regulations address spills of hazardous materials, and prioritization of remediation projects to be funded by the State. The regulations were promulgated so as to be utilized by the Illinois Environmental Protection Agency (Agency) in concert with the Agency's administration of the legislatively appropriated "State Superfund" monies.

Sections 7.2 and 22.7 of the Environmental Protection Act (Act) require the Board to adopt the contingency plan regulations on a "fast track" basis pursuant to "identical in substance" rulemaking procedures. Specifically, Section 22.7 requires the Board to adopt regulations which are identical in substance to the federal regulations or amendments thereto promulgated by the

¹ The Act was formerly codified at Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1001 et seq.

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Administrator of the USEPA to implement Section 105 of (CERCLA).² Section 7.2(b) of the Act requires the Board to adopt a rule within one year of adoption of a federal rule, unless the Board extends the time based on a finding that the time is insufficient, and stating the reasons. The Board is to specify a date certain anticipated for completion unless a specified event beyond the Board's control prevents such specificity.

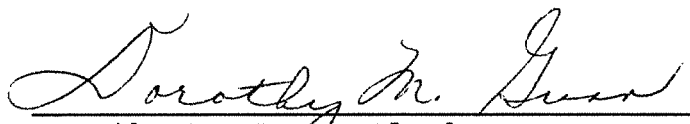
The Board cannot, however, specify an anticipated date certain for completion of this proceeding due to an event beyond the Board's control. This event is pendency in the spring session of the 88th General Assembly of SB534. SB534, among other things, seeks to amend provisions of Section 27(a) of the Act which establish the specifics of the State contingency plan's identical in substance mandate. As a matter of administrative economy for the Board and Agency, and to conserve the resources of the regulated community and other affected members of the public, the Board will not proceed until the legislature and then the Governor take final action to amend or not amend the existing statute. The Board will monitor the progress of SB534 during the course of the legislative session. The Board presently anticipates issuing an order on or about July 22, 1993 (the date of the Board's second scheduled July meeting) which reports the status of the legislation, and which contains the Board's best assessment of when this rulemaking may be completed.

Pursuant to Section 7.2(b) of the Act, the Board will submit this order for publication in the Illinois Register as expeditiously as possible.

IT IS SO ORDERED.

² While the Act requires that the contingency plan regulations be patterned after the USEPA "Superfund" regulations, their adoption is not required by the USEPA. In this respect, the contingency plan regulatory program differs from most other "identical in substance" programs (such as RCRA).

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 25th day of March, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board