

ILLINOIS POLLUTION CONTROL BOARD
February 3, 1994

IN THE MATTER OF:)
)
) R93-20
PRETREATMENT UPDATE,) (Identical in Substance
USEPA REGULATIONS,) Rulemaking)
(1-1-93 THROUGH 6-30-93))

EXTENSION OF TIME.

ORDER OF THE BOARD (by J. Theodore Meyer):

Section 13.3 of the Environmental Protection Act (Act) (415 ILCS 5/13.3 (1992)) requires the Board to adopt regulations which are "identical in substance" to USEPA rules adopted to implement Sections 307 and 409 of the Clean Water Act. The term "identical in substance" is defined in Section 7.2 of the Act. Section 7.2(b) of the Act requires the Board to adopt a rule within one year of adoption of the federal rule, unless the Board extends the time based on a finding that the time is insufficient and stating the reasons for the extension. It appears that adoption of the regulations in this docket will be late. Therefore, the Board is entering this order to extend the time.

The federal wastewater pretreatment regulations are found at 40 CFR 400 through 499. This rulemaking updates the Illinois pretreatment rules (codified at 35 Ill. Adm. Code 307, 309, and 310) to correspond with federal amendments adopted in the period from January 1 through June 30, 1993. The only federal amendments adopted during this period are amendments to the federal sewage sludge management rules, adopted on February 19, 1993, at 58 Fed. Reg. 9248. Those February 19 amendments include amendments to 40 CFR 403. The Illinois counterpart to Part 403 is 35 Ill. Adm. Code 310.

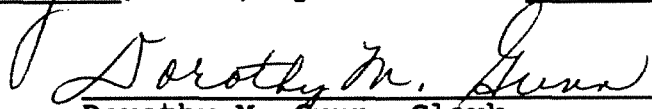
The Board hereby finds that an extension of time is necessary. This proceeding has been delayed while the Board considers its authority to adopt the February 19 federal amendments under the identical in substance provisions of the Act. Those federal rules amend the removal credits provisions, limiting the availability of credits to certain contaminants based on the treatment works' sewage sludge use or disposal practices. If those amendments are viewed as substantive limitations on the treatment works' ability to manage its pretreatment program, those amendments are an essential part of a federally-approvable wastewater pretreatment program. However, the February 19 amendments assert Section 405 of the Clean Water Act as authority for the amendments. Section 13.3 of the Act only allows the Board to adopt rules that are identical in substance to federal regulations adopted under Sections 307 and 402 of the Clean Water Act.

The presently-anticipated date for further Board action in this proceeding is at the Board meeting of March 3 or 17, 1994. At that point, the Board will decide whether to proceed with a proposal, solicit public comments, or dismiss this docket. If the Board decides to proceed, this docket will be completed as soon as possible, taking into account the required notice and comment provisions of Section 13.3.

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

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 3rd day of February, 1994, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board