

ILLINOIS POLLUTION CONTROL BOARD

October 7, 1993

IN THE MATTER OF:)
)
RCRA SUBTITLE D AMENDMENTS) (Identical in Substance Rule)
(AMENDMENTS TO 35 ILL. ADM.)
CODE PART 810, PART 811,)
AND PART 814))

R93-10

ORDER OF THE BOARD (by J. Anderson):

On September 30, 1993, the USEPA, Region 5 (Region 5), filed a request that the Board extend its post-adoption comment period deadline in this matter from the September 30, 1993 deadline established in the Board's September 15, 1993 final opinion for an additional 30 days, until October 30, 1993.

Region 5 is requesting the additional time so as to allow USEPA sufficient time for review and comment before the Board finalizes the regulations.

On October 1, 1993, the Illinois Environmental Protection Agency (Agency) requested a similar extension, until October 29, 1993.

The Board will extend the comment period only for USEPA and the Agency until October 30, 1993. As discussed below, the extra time is related to USEPA's approval process regarding Illinois' Subtitle D program.

Region 5 explains that it has received an application for Subtitle D adequacy from the Agency pursuant to Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA). Based on the Agency's application and the recently adopted P. A. 88-496 signed and effective 9/13/93 (HB 300), Region 5 intends:

. . . to make a tentative determination of full program approval. The overall effective date of Subtitle D is October 9, 1993. It is in the best interest to the citizens of Illinois that Region 5 make a timely decision in determining State program adequacy. Region 5 is in the final stages of that determination and will shortly publish its decision in the Federal Register. In that Federal Register notice of tentative approval, Region 5 will also indicate it has received the IPCB rules and will begin its review for Subtitle D adequacy. (Region 5 request, by Norman R. Niedergang, Associate Division Director for RCRA, Waste Management Division, at 1.)

It is Region 5's intent to review and provide comment to the Board on the Board's rule package by October 30; Region 5 expressly requests the Board to postpone its final vote until Region 5 completes its review. Region 5 then states:

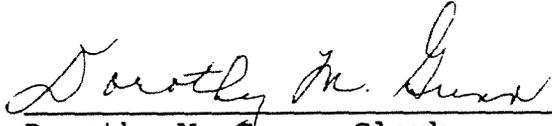
In a worst case situation, Region 5 could possibly conclude that portions of the rule may not be consistent with Subtitle D. If the rules are not finalized, any possible amendments to the rule could still be discussed. Consequently, if the rules were finalized, then public confusion would arise should the adequacy of the final rules be questioned. (Region 5 request at 1.)

The Board appreciates Region 5's intent to proceed with its review of Subtitle D amendments. We note that we share Region 5's concerns about avoiding confusion; that concern was a reason why the Board made the effort to have its Subtitle D amendments ready for review by adopting them prior to the federal October 9, 1993 compliance deadline. We also appreciate the Agency's assistance in this endeavor by its earlier ongoing review of, and comment on, the proposed amendments prior to their adoption.

We also note that the USEPA administrator signed a final rule on September 27, 1993 allowing nine Midwestern states that were affected by this summer's flooding, including Illinois, to extend the October 9, 1993 Subtitle D compliance deadline for up to six months, with an additional six months if needed. (58 FR 51536, October 1, 1993) During this extended post-adoption comment period, we request the Agency to comment on this matter, including any recommended language for the Board's adopted rule.

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 7th day of October, 1993, by a vote of 7-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board