

ILLINOIS POLLUTION CONTROL BOARD
December 3, 1992

IN THE MATTER OF:)
)
SAFE DRINKING WATER ACT UPDATE,) R92-3
LEAD AND COPPER AND PHASE IIB) (Identical in Substance Rules)
(6-1-91 through 12-31-91))

EXTENSION OF TIME

ORDER OF THE BOARD (by J. Anderson):

TIME-FRAME OF DOCKET

The Board has decided to adjust the time frame of dockets R91-15 and R92-3 so we can handle both sets of federal amendments in the single docket, R92-3. The time frame of docket R92-3 will therefore include the period from June 1, 1991 through December 31, 1991.

Previously, the federal rulemaking period covered by docket R91-15 was February 1, 1991 through June 30, 1991. During this period, USEPA promulgated the Lead and Copper rules as follows:

56 Fed. Reg. 26547 June 7, 1991

Previously, the period for docket R92-3 was July 1, 1991 through December 31, 1991. During this period, USEPA promulgated the Phase IIB rules and corrections to the Phase II rules as follows:

56 Fed. Reg. 30266 July 1, 1991

The Board incorporated the Phase II corrections and certain elements of the Phase IIB rules into docket R91-3 and adopted amendments based on those corrections on November 19, 1992. Certain, limited, core Phase IIB amendments remain outstanding.

The Board has decided to deal with both sets of federal amendments in the same rulemaking. There are important reasons for doing so. Initially, very little time elapsed between the federal amendments of June 7, 1991 and July 1, 1991. Second, only limited, yet important, elements of the Phase IIB rules remain outstanding after the amendments of docket R91-3. Finally, there appears some possible overlap between these amendments in that the Phase IIB rules implement new maximum contaminant levels (MCLs), and the Lead and Copper rules repeal an MCL in favor of a different approach.

Further, USEPA imposed an administrative stay on the certain of the Phase IIB rules during the time-frame of docket R92-12. The USEPA stay appeared as follows:

0137-0721

57 Fed. Reg. 22178

May 27, 1992

Since that stay affects only certain of the Phase IIB rules involved in this docket, the Board includes that action in this docket.

REASON FOR DELAY

The federal rulemaking period covered by docket R92-3 is presently June 1, 1991 through December 31, 1991. During this period, USEPA promulgated the Lead and Copper rules and the Phase IIB rules as follows:

56 Fed. Reg. 26547	June 7, 1991
56 Fed. Reg. 30266	July 1, 1991
57 Fed. Reg. 22178	May 27, 1992

The Board incorporated the Phase II corrections and certain elements of the Phase IIB rules into docket R91-3 and adopted amendments based on those corrections on November 19, 1992. Certain, limited, core Phase IIB amendments remain outstanding.

Section 17.5 of the Environmental Protection Act (Act) requires the Board to adopt regulations that are "identical in substance" with USEPA drinking water rules adopted pursuant to Sections 1412(b), 1414(c), 1417(a), and 1445(a) of the Safe Drinking Water Act (P.L. 93-523), as amended (SDWA). The term "identical in substance" has been 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 federal rule, unless the Board extends the time based on a finding that the time is insufficient and stating the reasons. It appears that adoption of the regulations in this docket, is already delayed (as explained below). The Board is therefore entering this order to extend the time.

The USEPA SDWA rules are located at 40 CFR 141 through 143. These have been the subject of two recent amendments, discussed above. The federal amendments of June 7, 1991 (docket R91-15) were due on or before June 7, 1992. Those of July 1, 1991 were due July 1, 1992.

The Board hereby that necessary delays in adopting the amendments involved in R91-3 have resulted in unavoidable delay in proceeding with the amendments of dockets R91-15 and R92-3. The amendments involved in both dockets interrelate with those of docket R91-3 in such a way that it was impossible to proceed with the R92-3 amendments until the R91-3 amendments were adopted. Many of the same Sections are involved in both proceedings, and, in fact, docket R91-3 included many amendments nominally within the present time-frame of docket R92-3. It was even impossible until completion of the R91-3 amendments to predict when the

0137-0722

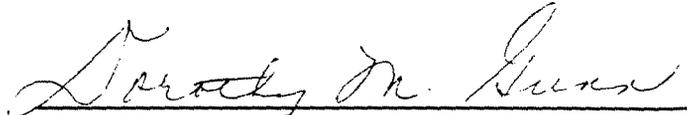
Board could complete the R92-3 amendments. Further, USEPA did not release the guidance documentation relating to Lead and Copper rules until November, 1992. We find this guidance information important to deciding how to approach various issues raised by the federal rules. Therefore, we find that an extension of time is warranted and necessary and enter this order at this time.

We presently anticipate completion of a proposal for public comment on or before our regularly-scheduled meeting of February 25, 1993. After allowing Board staff a brief, but sufficient, time to obtain publication in the Illinois Register, and allowing at least 45 days for public comment, the Board believes that we will conclude this rulemaking on or before our regularly-scheduled meeting of June 3, 1993.

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, do hereby certify that the above order was adopted on the 3rd day of December, 1992, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board