

ILLINOIS POLLUTION CONTROL BOARD  
September 2, 2010

IN THE MATTER OF:	)	
RCRA SUBTITLE C UPDATE, USEPA	)	R09-16
AMENDMENTS (July 1, 2008 through	)	(Identical-in-Substance
December 31, 2008)	)	Rulemaking - Land)
_____	)	
	)	
RCRA SUBTITLE C UPDATE, USEPA	)	R10-4
REGULATIONS (January 1, 2009 through	)	(Identical-in-Substance Rulemaking -
June 30, 2009)	)	Land)
	)	(Consolidated)

Proposed Rule. Deadline Extension Order.

ORDER OF THE BOARD (by G.T. Girard):

This matter is before the Board on the Board's own motion. The Board finds that extension of the deadline for filing of amendments in this matter until November 30, 2010 is necessary. By this order the Board extends the deadline for adoption of the pending amendments and sets forth the reasons for delay.

**REASONS FOR DELAY AND EXTENSION OF DEADLINE**

The statutory due date for this proceeding was based on the earliest federal amendments included in this rulemaking, the October 30, 2008 amendments to the Definition of Solid Waste Rule. Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)). The statutory due date for filing the completed amendments, therefore, is one year from that date, so the Board must have filed the amendments with the Office of the Secretary of State before October 30, 2009.

By an order dated October 15, 2009, the Board previously set forth reasons for delay and extended the deadline as required by 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)). That order extended the time for the Board to complete rulemaking activities on these federal amendments until April 15, 2010. A Notice of Public Information Pursuant to 415 ILCS 5/7.2(b) appeared in the October 30, 2009 issue of the *Illinois Register*, at 33 Ill. Reg. 14841. By a subsequent order dated March 18, 2010, the Board again set forth reasons for delay and extended the deadline until September 13, 2010. Meeting that deadline is not possible at this time.

The Board adopted a proposal for public comment in this matter on June 17, 2010. Extensive delays occurred in preparing the proposal for publication. The USEPA withdrawal of significant amendments on June 15, 2010, immediately before adoption, and the sheer volume of the opinion () and order () in this matter prolonged preparation of the documents. Considerable work went into ensuring that the text included in the proposal was accurate and complete. This

resulted in delayed publication in of the Notices of Proposed Amendments in the *Illinois Register*.

Publication of the Notices of Proposed Amendments in the *Illinois Register* occurred on August 6, 2010, at 34 Ill. Reg. 10991 (Part 703), 11021 (Part 720), 11096 (Part 721), 11298 (Part 722), 11354 (Part 724), and 11368 (Part 725). This means that the public comment period in this matter will end no earlier than September 20, 2010. The earliest practicable date for Board consideration of adopting amendments based on the proposal would be October 14, 2008. If the Board votes to adopt amendments on that date, the Board is required by agreement to delay filing the amendments with the Office of the Secretary of State for 30 days after that vote, in order to allow USEPA to review and comment on the adopted rules before they become effective. Thus, the Board has selected November 30, 2010 as the new deadline for final Board action on the USEPA rules involved in this consolidated docket.

To accomplish a November 30, 2010 deadline, the Board must adhere to the projected of the following schedule of intermediate occurrences:

Due date:	November 30, 2010
Date the Board voted to propose amendments:	June 17, 2010
Date submitted for <i>Illinois Register</i> publication:	July 20, 2010
Date of <i>Illinois Register</i> publication:	August 6, 2010
Imminent End of 45-day public comment period:	September 20, 2010
Date of Board vote to adopt amendments:	October 14, 2010
End of 30-day hold period for USEPA review:	November 14, 2010
Probable filing and effective date:	November 22, 2010
Probable <i>Illinois Register</i> publication date:	December 3, 2010

This revised schedule includes an added period of two weeks to allow for submission and evaluation of voluminous and complex comments that the Board may receive on the proposal for public comment.

For the foregoing reasons, the Board finds that delay was unavoidable and an extension of the deadline for completion of these amendments is necessary until November 30, 2010. The reasons for further delay are those recited in the foregoing paragraphs. The Board hereby extends the deadline for completion of this rulemaking under Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)) until that date. The Board also directs staff to cause publication of a Notice of Public Information on Proposed Rules in the *Illinois Register*, based on this order, which sets forth reasons for delay and extends the due date for this proceeding.

Board staff is directed to promptly cause publication of a Notice of Public Information on Proposed Amendments in the *Illinois Register* that sets forth the foregoing as reasons for delay.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 2, 2010, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board