

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED AMENDMENTS TO)	R 22-18
GROUNDWATER QUALITY)	(Rulemaking – Public Water Supplies)
35 ILL. ADM. CODE 620)	

NOTICE OF FILING

TO: Mr. Don A. Brown, Clerk of the Board Illinois Pollution Control Board 100 West Randolph Street Suite 11-500 Chicago, Illinois 60601 (VIA ELECTRONIC MAIL)	Vanessa Horton, Hearing Officer Illinois Pollution Control Board 100 West Randolph Road Suite 11-500 Chicago, Illinois 60601 (VIA ELECTRONIC MAIL)
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(See Persons on Attached Service List)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **POST-HEARING COMMENT OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP**, copies of which are hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: February 24, 2022

By: /s/ Melissa S. Brown
One of Its Attorneys

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**POST-HEARING COMMENT
OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP**

The Illinois Environmental Regulatory Group (“IERG”), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the December 8, 2022 Hearing Officer Order, submits the following Post-Hearing Comment for the Illinois Pollution Control Board’s (“Board”) consideration in this rulemaking.

IERG does not support the Illinois Environmental Protection Agency’s (“Illinois EPA” or “Agency”) proposed groundwater standards for the six per- and polyfluoroalkyl substances (“PFAS”). Based on a comparison of the Agency’s proposed PFAS standards to standards adopted in other states, it is apparent that Illinois would have some of, if not the most stringent standards for PFAS chemicals in the country. *See* Testimony of Carol Hawbaker, Illinois EPA, First Hearing Transcript, PCB R 22-18 at 30:17-23 (Mar. 9, 2022). When Illinois EPA conducted its pre-proposal stakeholder outreach as to the proposed standards, IERG questioned whether the Agency had identified new science or a new understanding of the threats posed by these PFAS chemicals that were unknown to other states, or if some assumptions were made differently in calculating the draft PFAS standards than was the case in other states. It is now clear from the hearings conducted in this rulemaking that that is not the case. The standards proposed for the PFAS constituents are needlessly stringent and will result in many detections above those levels throughout the state, creating potential liability for numerous entities and raising questions and unnecessary concerns from the general public about threats to their health.

IERG is also concerned that many of the detection limits that are theoretically achievable based on published methods may be difficult to achieve in practice, and that methods adopted for certain sample types (i.e., drinking water) may not be applicable or accurate when used for other types of samples (i.e., raw water or potentially polluted groundwater). Additionally, the Agency's proposed groundwater standard for PFOA is below USEPA's reporting level, which suggests that such a low level cannot be reliably measured. The Agency has also confirmed that PFAS is prevalent throughout the State from countless sources. Illinois EPA's Responses to IERG's Pre-Filed Questions, PCB R 22-18 at 4 (Mar. 7, 2022) (Since the 1940's, PFAS compounds have been used in a wide range of consumer products, industrial processes, and in some fire-fighting foams. The Illinois EPA is aware that this has resulted in PFAS being released into the air, water, and soil of the state of Illinois."). The stringency of the proposed PFAS standards, along with the prevalence of PFAS throughout the State, raises significant concerns and uncertainty about the ability of the regulated community to comply with such standards.

Moreover, IERG believes it would be prudent for the Board to adopt drinking water standards for the PFAS constituents before proceeding with adoption of PFAS groundwater standards. Illinois EPA had explained at hearing that it will be conducting thorough stakeholder outreach for settling MCLs for PFAS, including evaluation feasibility and costs associated with such standards. Illinois EPA has not adequately evaluated the technical feasibility and economic reasonableness of the proposed PFAS standards in this rulemaking. It is apparent from Illinois EPA's testimony that it has not considered the broader impacts of the proposed PFAS standards, including the incorporation of such standards into the Tiered Approach to Corrective Action Objectives ("TACO") program. *See* Testimony of Lynn Dunaway, First Hearing Transcript, PCB R 22-18, at 56:1-23 and 57:14-19 (Mar. 9, 2022). The regulated community requires a

thorough analysis of the technical feasibility and economic reasonableness before establishing any regulatory standard, but especially one as highly contested as standards for PFAS.

Lastly, as Illinois EPA has acknowledged, the toxicology behind setting PFAS standards is rapidly changing. Testimony of Carol Hawbaker, Illinois EPA, First Hearing Transcript, 30:15-17 and 47:1-6 (Mar. 9, 2022). This, coupled with the acceleration of federal actions to address PFAS, are sound reasons for Illinois EPA to pause its efforts to establish PFAS groundwater standards. IERG urges the Board to not adopt Illinois EPA's proposed groundwater standards for the six PFAS constituents and encourages Illinois EPA to continue to research, evaluate, and advance understanding of PFAS contamination in Illinois before establishing regulatory standards.

IERG would like to thank the Board for the opportunity to submit this comment.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

Dated: February 24, 2023

By: /s/ Melissa S. Brown

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CERTIFICATE OF SERVICE

I, Melissa S. Brown, the undersigned, hereby certify that I have served the attached **POST-HEARING COMMENT OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP** on February 24, 2022, to the following:

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That my email address is Melissa.Brown@heplerbroom.com

That the number of pages in the email transmission is 6.

That the email transmission took place before 5:00 p.m. on the date of February 24 2023.

Date: February 24, 2023

/s/ Melissa S. Brown _____
Melissa S. Brown