

ILLINOIS POLLUTION CONTROL BOARD  
September 4, 2008

|   |   |                                   |
|---|---|-----------------------------------|
| IN THE MATTER OF:                         | ) |                                   |
| WASTEWATER PRETREATMENT                   | ) | R08-5                             |
| UPDATE, USEPA AMENDMENTS (January         | ) | (Identical-in-Substance           |
| 1, 2007 though June 30, 2007)             | ) | Rulemaking - Public Water Supply) |
|   | ) |                                   |
|   | ) |                                   |
| SDWA UPDATE, USEPA AMENDMENTS             | ) | R08-7                             |
| (January 1, 2007 though June 30, 2007 and | ) | (Identical-in-Substance           |
| June 3, 2008)                             | ) | Rulemaking - Public Water Supply) |
|   | ) |                                   |
|   | ) |                                   |
| SDWA UPDATE, USEPA AMENDMENTS             | ) | R08-13                            |
| (July 1, 2007 though December 31, 2007)   | ) | (Identical-in-Substance           |
|   | ) | Rulemaking - Public Water Supply) |
|   | ) | (Consolidated)                    |

Proposed Rule. Proposal for Public Comment. Deadline Extension Order for R08-7/R08-13.

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

**SUMMARY OF THIS ACTION**

The Board today adds proposed amendments to the Illinois regulations that are “identical in substance” to drinking water regulations adopted by the United States Environmental Protection Agency (USEPA). These amendments are corrections to the amendments proposed in this consolidated docket on August 7, 2008. They are minor corrections to the amendments adopted in a prior consolidated Safe Drinking Water Act (SDWA) (42 U.S.C. §§ 300f *et seq.* (2007)) update docket, as described below, which the Board should have included in the presently pending proposal in this consolidated docket. The Board has determined that these proposed corrections are significant enough to warrant publication in the *Illinois Register*.

The Notices of Proposed Amendments for the consolidated R08-5/R08-7/R08-13 wastewater pretreatment and SDWA update docket appeared in the August 29, 2008 issue of the *Illinois Register*, at 32 Ill. Reg. 14032 (Part 307), 14054 (Part 310), and 14065 (Part 611). The public comment period will end on those notices on October 13, 2008. The Board presently intends to consider adoption of the R08-5 wastewater pretreatment amendments based on those segments of the proposal at the regularly scheduled meeting of November 6, 2008.

The Board will, however, deconsolidate the docket R08-5 wastewater pretreatment amendments from the consolidated R08-7/R08-13 SDWA amendments. The Board presently intends to proceed separately on the wastewater pretreatment amendments to Parts 307 and 310 of the rules in docket R08-5 based on the August 7, 2008 proposal and August 29, 2008 *Illinois Register* notices.

The Board will withdraw the August 29, 2008 Notice of Proposed Amendments relating to the Part 611 amendments, which was based on the August 7, 2008 Board proposal. The captions of future orders will reflect this deconsolidation. The Board will cause a new Notice to appear in the *Illinois Register* that also reflects the changes made today.

The new Notice of Proposed Amendments will combine the text of Part 611, as it appeared in the August 7, 2008 proposal for public comment, with the revisions described in this supplemental opinion and order. There is no reason for the Board to repeat in this supplemental opinion and order those segments of the August 7, 2008 proposal for public comment that pertain to the SDWA amendments and which remain unchanged. The discussions included in this supplemental opinion and order add to the material relating to SDWA that was contained in the August 7, 2008 opinion and order.

The delay caused by publication of a new Notice of Proposed Amendments will delay adoption of these SDWA amendments. This makes it necessary for the Board to extend the deadline a third time for the SDWA amendments, from the current deadline of December 1, 2008 to the newly extended deadline of December 31, 2008. This extension of the deadline for the Board to complete action on these amendments is discussed beginning on page 10 of this supplemental opinion and order.

### **THE REASON FOR ADDED SDWA CORRECTIONS**

The Board adopted amendments to the drinking water rules in a prior consolidated update docket during Summer 2007. *See* SDWA Update, USEPA Regulations (January 1, 2006 though June 30, 2006), R07-2, and SDWA Update, USEPA Regulations (July 1, 2006 though December 31, 2006), R07-11 (consol.) (July 26, 2007). The Illinois Environmental Protection Agency (Agency) submitted e-mails and a letter that outlined corrections that the Board needed to make in the amendments, which had already been filed with the Office of the Secretary of State. The Board docketed the Agency correspondence as public comments in the prior update docket R07-2/R07-11 (as PC 4 and PC 5), and in the then-reserved docket R08-7 (as PC 1 and PC 2). The two comments are described as follows:

- PC 1 August 10, 2007 through August 13, 2007 e-mail exchange between Stefanie Diers, Division of Legal Counsel, Agency and Michael J. McCambridge, hearing officer.
  
- PC 2 November 20, 2007 letter from Stefanie Diers, Agency (received November 21, 2007).

The Board had intended at the time the Agency comments were received to include the corrections in the next SDWA update docket, which was R08-7. The Board inadvertently overlooked those comments and the corrections they contain in the preparation of the August 7, 2008 proposal for public comment. Thus, the proposal for public comment did not include the corrections to the R07-2/R07-11 amendments.

The reserved docket SDWA Update, USEPA Regulations (January 1, 2008 though June 30, 2008), R09-7 (Aug. 21, 2008) was dismissed for lack of any federal actions during the first half of 2008. That means the next SDWA update proposal for public comment will not appear until at least early 2009. The Board would prefer to complete the corrections in this docket.

The Board has examined each of the corrections offered by the Agency in PC 1 and PC 2. The Board has determined that, although none of the individual corrections are particularly significant, they are, in aggregate, sufficiently important that withdrawal of the August 29, 2008 Notice of Proposed Amendments for Part 611 and publication of a new Notice of Proposed Amendments in the *Illinois Register* will be necessary. Publishing a new Notice of Proposed Amendments in the *Illinois Register* that includes these changes will optimize the opportunity of the public to comment on the new revisions in the context of the overall rulemaking. It will do so at the expense of only slight delay in final adoption of the amendments.

### **CONSIDERATION OF THE AGENCY-SUGGESTED CORRECTIONS**

The Agency offered eight corrections to the text of the R07-2/R07-11 amendments and one correction to an error in the opinion. The Board is proposing corrections to the text of the rules based on seven of the eight Agency suggestions. The Board has included corrections needed to complete the corrections suggested by the Agency. Thus, the corrections suggested by the Agency to Section 611.920(c)(1)(D) through (c)(1)(H) prompted further corrections to Section 611.920(c) and (c)(1)(A) through (c)(1)(C).

Most of the corrections prompted by PC 1 and PC 2 are derived from the one Agency suggestion in PC 2 that the Board has not followed *verbatim*. The examination of the text prompted by the issues raised by this suggestion has resulted in a series of corrections to the text of the rules. These corrections are to Sections 611.381, 611.480, 611.526, 611.531, 611.611, 611.612, 611.645, 611.720, 611.1004, and 611.1007. They relate to designation of alternative methods by USEPA using the streamlined authorization procedure for analytical methods, which USEPA first employed in its June 3, 2008 amendments. The June 3, 2008 amendments were included in the August 7, 2008 proposal for public comment.

The corrections that resulted from the Board's examination of the rules are intended to clarify the Agency's existing ability to approve alternative analytical methods that have been approved by USEPA, like those of June 3, 2008. The gist of the Agency's suggestion was that only USEPA has the authority to approve alternative analytical methods. The Board concludes that it is USEPA that makes the determination that an analytical method is equivalent to an existing approved method. The Agency has the ability to approve an alternative method for use in Illinois (once determined equivalent by USEPA). This would allow use of the method in Illinois in the time before the Board can adopt identical-in-substance rules that would incorporate the new method into the Illinois regulations.

All of the corrections prompted by evaluation of the Agency comments in PC 1 and PC 2 involve limited segments of Sections 611.101, 611.381, 611.480, 611.526, 611.531, 611.611, 611.612, 611.645, 611.720, 611.801, and 611.920. Most of the individual corrections are such that no specific discussion is necessary. Instead, the Board has tabulated all of the corrections,

outlining the location and nature of each correction made. This includes indication of the sources of the changes, *i.e.*, whether each correction derived from the Agency, the Board, or both. That table appears below, beginning on page 14 of this supplemental opinion and order.

The Board cannot correct the already-issued opinion in consolidated docket R07-2/R07-11, but the Agency is correct that the segment in the opinion that discussed “40/60 certification” should have referred to “40/30 certification.” See SDWA Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-2, and SDWA Update, USEPA Regulations (July 1, 2006 through December 31, 2006), R07-11 (consol.) (July 26, 2007), slip op. at 9.

It is the Board’s usual practice to set forth the entire text of Sections of the rules when proposing amendments. This helps minimize the possibility of errors in managing the text as the amendments appear in Board orders, *Illinois Register* notices, and in filing. The order segment of this supplemental opinion and order includes only the segments of the Sections that require correction. The segments of text included in this supplemental opinion and order will be combined with the full text of the amendments as they appeared in the amendments to Part 611 included in the August 7, 2008 proposal for public comment.

The discussion that follows relates only to the Agency suggestion that the Board did not follow *verbatim*, but which, nevertheless, prompted a series of corrections to clarify the text of the existing rules.

#### **Agency-Suggested Correction Relating to Approval of Alternative Methods**

The Agency suggested that the Board change the language of Section 611.381(a). As adopted in R07-2/R07-11, this preamble statement requires a supplier to use only those analytical methods listed in the subsections that follow for the applicable contaminants. It allows the supplier to use “alternatives as approved by the Agency.” The Agency suggested in PC 2 that the Board should substitute “USEPA” for “Agency,” since it is USEPA that approves alternative methods. The Board agrees with the Agency’s premise that it is USEPA that approves all alternative methods, but the Board does not agree that the premise necessitates the Agency’s suggested changes in this provision.

The Board believes that the existing regulations preclude the Agency from approving any methods that are not approved by USEPA or designated as alternative methods by USEPA. The Board further believes that making the change requested by the Agency would potentially deny the Agency the flexibility in the future to approve USEPA-designated alternative methods when the Board has not yet adopted amendments to the Illinois rules based on that federal designation.<sup>1</sup>

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<sup>1</sup> Section 7.2 of the Environmental Protection Act (Act) (415 ILCS 5/7.2(b) (2006)) allows the Board one year to complete rulemaking on federal amendments. Section 7.2(b), however, further provides a means by which the Board may extend the deadline when necessary.

Section 611.480 of the Illinois rules provides that the Agency can approve the use of “an alternative analytical technique,” with the concurrence of USEPA. This provision derives from 40 C.F.R. 141.27, which provides that USEPA may approve “an alternate analytical technique” that is “substantially alternative to the prescribed test in both precision and accuracy,” with the written approval of the state.

On June 4, 2008, USEPA approved 99 alternative test methods for analysis of contaminants in drinking water. *See* 73 Fed. Reg. 31616 (June 3, 2008). This was USEPA’s first use of a new streamlined mechanism to determine alternative methods. Section 1401(1) of SDWA (42 U.S.C. § 300f(1) (2006)) authorizes USEPA to determine alternative methods by guidance published in a *Federal Register* notice without the formalities of a full rulemaking action. USEPA listed the methods, however, in a new appendix to 40 C.F.R. 141. The Board included that listing in this consolidated docket.

The Board’s focus in the August 7, 2008 proposal for public comment was on how best to fit the June 3, 2008 USEPA-approved alternative methods into the Illinois regulations. *See* Wastewater Pretreatment Update, USEPA Regulations (January 1, 2007 though June 30, 2007), R08-5, SDWA Update, USEPA Regulations (January 1, 2007 though June 30, 2007 and June 3, 2008), R08-7, and SDWA Update, USEPA Regulations (July 1, 2007 though December 31, 2007), R08-13 (consol.) (Aug. 7, 2008) (proposal for public comment), slip op. 10. The Agency comments on approval of alternative methods in PC 2 prompted Board examination of the issues relating to the scope and desirability of the Agency having authority to approve alternative methods already determined equivalent by USEPA.

This analysis has convinced the Board that it is necessary to clarify the existing regulations that reference the Agency’s authority to do so. The Board agrees that the Agency has no role in determining that a method is equivalent to an approved method, since it is USEPA alone that can make that determination. The Board concludes, though, that the Agency still has a role in approving USEPA-designated alternative analytical methods for use in Illinois—even though that role is limited to allow the use of those methods in Illinois until such time as the Board adopts them in a identical-in-substance rulemaking.

Prior to USEPA’s first use of the streamlined procedure on June 4, 2008, USEPA approved new analytical methods by full notice-and-comment rulemaking. USEPA described the approval of methods by rulemaking as follows:

When [US]EPA establishes a monitoring requirement for a drinking water contaminant, [it] also specifies at least one reference analytical method that can be used to determine the contaminant’s concentration in drinking water. Public water systems must currently use a testing method listed in the regulation when performing analyses of samples to demonstrate compliance or for use in unregulated contaminant monitoring.

Methods that are incorporated into the regulation are approved through a rulemaking process. In general, this means that [US]EPA publishes a proposed rule, citing the method along with a discussion of how the method can be used to

analyze samples. The method is proposed for approval in conjunction with monitoring requirements for one or more specific contaminants. [US]EPA solicits public comment. After consideration of the comments, [US]EPA decides whether to approve the method. If the method is deemed suitable, it is included in a final rule. The method is not approved for analysis of compliance or [unregulated contaminant monitoring regulations] samples until it is referenced in a final rule. 72 Fed. Reg. 17902, 17903 (Apr. 10, 2007).

USEPA also describe the streamlined procedure authorized by SDWA:

Section 1401(1)(D) of SDWA, as amended in 1996, authorizes [US]EPA to approve alternative testing methods outside the normal notice-and-comment rulemaking process. \* \* \* Once [US]EPA has approved one testing method through the rulemaking process, section 1401(1)(D) allows [US]EPA to approve additional (alternative) testing methods for the same contaminant through an expedited process that simply involves publishing the alternative method in the Federal Register. To use this expedited process, [US]EPA must first find that the alternative testing method is “equally effective” as the method that was approved through rulemaking.

\* \* \* \* \*

After a method is demonstrated to be suitable for analyzing compliance or unregulated contaminant monitoring samples for a specific contaminant, and [US]EPA deems it to be “equally effective” as the originally promulgated method, [US]EPA will publish a notice in the Federal Register to announce that determination. \* \* \*

\* \* \* \* \*

The expedited method approval process will improve [US]EPA’s ability to make new technologies and improved analytical techniques available in a timely manner. Under the current process, after a method is shown to be suitable . . . , it cannot be used for that purpose until the rulemaking process is completed. The traditional rulemaking process in some cases can take two to three or more years to complete. \* \* \* Under the expedited process described in this notice, the method will be available as soon as [US]EPA publishes a Federal Register notice announcing that the method can be used for analyzing drinking water . . . samples. [US]EPA anticipates most alternative methods will be approved in this manner within six to eight months . . . . 72 Fed. Reg. at 17904.

The Board presently believes that USEPA may use this streamlined procedure with some regularity, now that it has used it for the first time. The ability of the Agency to approve alternative methods that have been determined equivalent by USEPA could prove both useful and desirable. It would allow the early use of alternative methods before the Board has incorporated them into the Illinois regulations. Making the change from “Agency” to “USEPA”

in Section 611.381, as suggested by the Agency, would foreclose such prompt approvals in Illinois, even though USEPA has determined that the method is “equally effective.” *See* 42 U.S.C. 300f(1) (2007).

This is not to say that the USEPA streamlined procedure does not pose potential problems in Illinois. Although these problems have not yet arisen, the Board must outline one of them here. If it arises, the problem could pose a significant challenge to overcome.

USEPA originally contemplated the procedure as mere publication of *Federal Register* notices of its determinations. *See* 72 Fed. Reg. at 17904 (explaining that the alternative methods would not appear in the body of the regulations). If USEPA does not incorporate its alternative analytical methods into rules, however, several problems will arise. The principal problem for the Board is that the *Federal Register* notice that publishes a determination of equivalency will not give the Board a codified rule upon which to base corresponding action with regard to the Illinois regulations. *See* 415 ILCS 5/17.5 (2006) (requiring “federal regulations or amendments thereto” for identical-in-substance rulemaking).

If unable to pursue the identical-in-substance procedure, the Board would be forced to proceed using the general rulemaking procedure of Sections 27 and 28 of the Act (415 ILCS 5/27 and 28 (2006)) to adopt the alternative method. This, however, would prove expensive in time, money, and resources, since two public hearings and additional notices would be required.<sup>2</sup> *See* 415 ILCS 5/27 and 28 (2006). This would defeat USEPA’s purpose of rapid deployment of newer methods.

USEPA, however, appears to have removed this potential problem. In its first use of the streamlined procedure, USEPA incorporated the alternative methods into a new appendix A to subpart C of 40 C.F.R. 141. *See* 73 Fed. Reg. 31616 (June 3, 2008). This gave the Board a codified regulation upon which to base identical-in-substance rulemaking action.<sup>3</sup> It is apparent that USEPA had this in mind when it added the appendix to its rules, and that it intends to continue to use and update the appendix:

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<sup>2</sup> While the expense in time, money, and resources is justified where the Board must make a determination on the merits in adopting and amending rules, there would be no such determination where the Board is not exercising discretion, but merely incorporating a federal action into the Illinois rules without reference to its merits.

<sup>3</sup> The Board notes that USEPA carefully avoided characterizing its action on the equivalent methods as rulemaking:

This action does not add regulatory language, but does, for informational purposes, add an appendix to the regulations at 40 CFR part 141 that lists the newly approved methods. Accordingly, while this action is not a rule, it is adding CFR text and therefore is being published in the “Final Rules” section of this Federal Register. 73 Fed. Reg. at 31617

In the future, if [US]EPA withdraws approval for a method that was approved via the expedited process, the Agency intends to update the table at Appendix A to Subpart C of Part 141 to reflect both the approval and withdrawal dates for the method in question.

\* \* \* \* \*

One approach that [US]EPA is using to assist States is to add an appendix in the CFR that lists all alternative methods approved using the expedited process. States can cite this appendix (Appendix A to Subpart C in 40 CFR 141) when they update their regulations. 73 Fed. Reg. at 31619.<sup>4</sup>

Having examined Section 611.381(a) to weigh the Agency suggestion that the Board amend the provision, the Board has determined to retain the reference to Agency authorization of alternative methods. This prompted review of the several similar provisions contained in the rules. The Board notes that Sections 611.611(a) and 611.645 include similar provisions, but there are differences in the language of Sections 611.381(a), 611.611(a), and 611.645. Section 611.381(a) refers to “their equivalents as approved by the Agency.” Section 611.611(a) refers to “alternative approved pursuant to Section 611.480.” Section 611.645 refers to “equivalent methods approved by the Agency pursuant to Section 611.480.” The Board has decided to revise each of these to refer to “alternative method” or “alternative methods,” depending on the context. USEPA refers to the methods as “alternative methods.” The standardized use of the label for these methods that is used by USEPA will serve to further the understanding that this refers to methods approved by USEPA using the streamlined procedure. The Board adds “pursuant to Section 611.480” to each reference that did not include it for the same purpose.

Further search of the rules disclosed that several of the methods provisions did not refer to the Agency’s ability to authorize alternative methods. The Board has corrected this at each location where the rule requires use of a list of methods. Thus, the Board has added “or an alternative method approved by the Agency pursuant to Section 611.480” or “or alternative methods approved by the Agency pursuant to Section 611.480,” as appropriate in the context, to each of Sections 611.526(c), 611.531, 611.612(f), 611.720, 611.802(c)(2), 611.1004(a) and (b), and 611.1007(c)(1). This will clarify that the Agency may approve any USEPA-designated alternative methods pending Board rulemaking action on the federal designation.

This review disclosed one final set of necessary corrections relating to approval of alternative methods. These all relate to Section 611.480, which is the key provision that authorizes the Agency to approve the methods.

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<sup>4</sup> With regard to the withdrawal of methods, USEPA has stated that it will use rulemaking to withdraw methods approved by rulemaking, and it will use the streamlined procedure to withdraw methods determined equivalent by the streamlined procedure. 73 Fed. Reg. at 31619.

First, the corrections to Section 611.480 change “alternate method” to the standardized usage “alternative method” where it appears throughout the provision. This harmonizes this key provision with the usage selected by USEPA.

Second, the corrections to Section 611.480 remove the sentence (derived from corresponding 40 C.F.R. 141.27) that would impose the determination of method equivalence on the Agency.<sup>5</sup> The determination that a method is equivalent to an already-approved method is a USEPA determination. The Board agrees with the Agency’s comment to the extent that it asserts that the Agency has no role in the determination of equivalence. *See* PC 2 at 1. The removal of this sentence will avoid any possibility for confusion as to the Agency’s role in the approval of alternative methods.

Finally, the Board has revised the first sentence of Section 611.480 to clarify when the Agency should approve an alternative method. First, the Board follows the usual practice and replaced “may” with “must” and added a statement of the determination that the Agency must make to authorize use of an alternative method. This determination is two-fold: (1) that USEPA has approved the method as an alternative method by adding it to the *Code of Federal Regulations*; and (2) that the Board has not completed rulemaking action on the method. When the Agency makes the threshold determination that USEPA has approved the method and that the Board has not yet incorporated the method into the Illinois regulations, the Agency must issue the special exception permit (SEP) (*see* 35 Ill. Adm. Code 611.110 (2006)) to authorize the method.

Thus, the Board has examined the contexts of the existing rules and USEPA’s use of the streamlined procedure for authorization of alternative methods. The Board has concluded that it is USEPA that makes the determination that an analytical method is an alternative method to an approved one, but that the Agency does have authority to approve USEPA-determined alternative methods for immediate use in Illinois. This examination has resulted in the Board correcting various segments of the existing rules to clarify both the existence of that authority and the limitations on its use.

#### **TIMETABLE FOR COMPLETION OF THIS RULEMAKING AND EXTENSION OF THE DEADLINE FOR FINAL ACTION**

Under Section 7.2 of the Act (415 ILCS 5/7.2(b) (2006)), the Board must complete this rulemaking within one year of the date of the earliest set of federal amendments considered in this docket. USEPA adopted the earliest federal amendments that required Board attention on March 12, 2007, so the deadline for Board adoption of these amendments under that provision was March 12, 2008.

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<sup>5</sup> The text of corresponding federal provision stated, “An alternate technique shall be accepted only if it is substantially equivalent . . .” 40 C.F.R. 141.27(a) (2007). The wording of the Illinois provision more clearly imposed a burden on the Agency: “The Agency must approve an alternate technique if it is substantially equivalent . . .” 35 Ill. Adm. Code 611.480 (2006).

Section 7.2(b), however, further provides for extension of the deadline for final Board action by adoption of a Board order and publication of a Notice of Public Information on Proposed Rules that extends the deadline. By an order dated March 6, 2008, the Board used this provision to extend the deadline. The Board did so again in the August 7, 2008 original proposal for public comment that included the SDWA amendments, extending the deadline until December 1, 2008. Further delay has resulted from corrections based on late consideration of Agency comments submitted in 2007 and inadvertently overlooked during the assembly of the August 7, 2008 original proposal for public comment. This has necessitated withdrawal of the Notice of Proposed Amendments for Part 611 published in the August 29, 2008 issue of the *Illinois Register*. These are the principal factors that make an extension of the deadline for final action on Part 611 necessary.<sup>6</sup> The Board today again extends the deadline for completion of the consolidated R08-7/R08-13 docket.

The final Board action to adopt these amendments is now December 31, 2008. This extended deadline has a slight amount of extra time added to allow for any minor unforeseen delays in finalizing the amendments.

Considering the proposal of these SDWA amendments on this date, the Board presently projects the following will occur in the progress towards completion of these amendments:

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| Original due date:                                   | March 12, 2008     |
| Extended due date (by a March 6, 2008 order):        | August 15, 2008    |
| Extended due date (by an August 7, 2008 order):      | December 1, 2008   |
| Extended due date (by this supplemental order):      | December 31, 2008  |
| Date of Board vote to propose amendments:            | September 4, 2008  |
| Submission for <i>Illinois Register</i> publication: | September 15, 2008 |
| Probable <i>Illinois Register</i> publication dates: | September 26, 2008 |
| Estimated end of 45-day public comment period:       | November 10, 2008  |
| Likely date of Board vote to adopt amendments:       | November 20, 2008  |
| Probable filing and effective date:                  | December 1, 2008   |
| Probable <i>Illinois Register</i> publication date:  | December 31, 2008  |

### **PUBLIC COMMENTS**

The Board invites public comment on the corrections included in this supplemental opinion and order. In particular, the Board urges the Agency, USEPA, and the regulated community to carefully examine the corrections relating to Agency approval of alternative methods that are designated as such by USEPA and to comment on those corrections. The Board notes again that this is a supplement to the proposal for public comment adopted by the Board on August 7, 2008. The Board will submit a new Notice of Proposed Amendments pertaining to all

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<sup>6</sup> The projected timetable that appears on this page indicates that it may still be possible to complete these amendments by December 1, 2008, but that would not permit any delays at any stage of this proceeding. The Board would prefer to allow for unforeseen delays in final adoption, rather than risk failing to meet the deadline.

of the amendments to Part 611 for publication in the *Illinois Register*. The Board presently intends to adopt amendments based on the proposal at the regularly scheduled meeting of November 20, 2008. Prompt submission of comments will assure timely Board consideration of those comments and adoption of the amendments.

As discussed above at page 2 of this opinion, the Board received two public comments prior to the start of the public comment period. Both comments were submitted by the Agency and both related to the prior consolidated SDWA update docket, SDWA Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-2, and SDWA Update, USEPA Regulations (July 1, 2006 through December 31, 2006), R07-11 (consol.) (July 26, 2007). The Agency submitted e-mails and a letter that outlined corrections that the Board needed to make in the amendments, which had by then been filed with the Office of the Secretary of State. The Board docketed the Agency correspondence as public comments in the prior update docket R07-2/R07-11 (PC 4 and PC 5), and in the then-reserved docket R08-7 (PC 1 and PC 2). The two comments are described as follows:

- PC 1 August 10, 2007 through August 13, 2007 e-mail exchange between Stefanie Diers, Division of Legal Counsel, Agency and Michael J. McCambridge, hearing officer.
- PC 2 November 20, 2007 letter from Stefanie Diers, Agency (received November 21, 2007).

The Board received other comments relating to the amendments involved in this docket. Prior to publication of the August 7, 2008 proposal for public comment, the Board received two e-mail responses to inquiries about obtaining copies of individual analytical methods. Those comments are the following:

- PC 3 July 8, 2008 through July 10, 2008 e-mail exchange between Jayne Brown, Chemistry Support, Waters Corp. (with attached copy of Method 6500, rev. 0 (Feb. 2007)) and Michael J. McCambridge, hearing officer.
- PC 4 July 8, 2008 through July 10, 2008 e-mail exchange between Pat Fair, Office of Ground Water and Drinking Water, USEPA and Michael J. McCambridge, hearing officer.

Following issuance of the August 7, 2008 proposal for public comment in the consolidated docket R08-5/R08-7/R08-13, the Board received e-mails from the Joint Committee on Administrative Rules (JCAR) that included suggestions for corrections to the rules:

- PC 5 August 18, 2008 e-mail from Deborah Connelly, JCAR to Michael J. McCambridge, hearing officer (pertaining exclusively to the wastewater pretreatment amendments in docket R08-5, deconsolidated from the R08-7/R08-13 SDWA amendments).

PC 6 August 18, 2008 and August 19, 2008 e-mail exchange between Deborah Connelly, JCAR and Michael J. McCambridge, hearing officer.

The JCAR comments included in PC 6 have prompted revisions to the current version of the text of the amendments, which will appear in the new Notice of Proposed Amendments. The Board has also made a limited number of miscellaneous corrections in the text. The table that appears beginning on page 17 of this supplemental opinion and order lists the revisions that have occurred in the text since August 7, 2008.

JCAR noted one passage in the text and expressed its desire for a better wording and structure for that provision. In PC 6, JCAR stated that Section 611.257(e)(2)(B) was awkward. The Board agreed, but explained that the structure presented in the proposal for public comment was the best that the Board could devise in the context. The next segment of this supplemental opinion and order explains the structure and wording of Section 611.357(e)(2)(B).

### **THE STRUCTURE AND WORDING OF SECTION 611.357(e)(2)(B)**

Section 611.357(e)(2)(B) is derived from 40 C.F.R. 141.87(e)(2)(ii), as amended by USEPA in 2000. *See* 65 Fed. Reg. 1950 (Jan. 12, 2000). The federal provision is a very long sentence that is difficult to read. It provides that a supplier may engage in reduced monitoring if it fulfills three preconditions. *See* 40 C.F.R. 141.87(e)(2)(ii) (2007).

When it adopted the existing State counterpart in SDWA Update, USEPA Amendments (January 1, 2000, through June 30, 2000), R01-7 (Jan. 4, 2001), the Board divided USEPA's single sentence into four separate segments in subsections (e)(2)(B) and (e)(2)(B)(i) through (e)(2)(B)(iii). Subsection (e)(2)(B) stated that the supplier may engage in reduced monitoring if it fulfills the conditions, and subsections (e)(2)(B)(i) through (e)(2)(B)(iii) recited the conditions, punctuated with semicolons and conjoined by "and" to clarify that the supplier must fulfill all three of the conditions.

USEPA added a second sentence to 40 C.F.R. 141.87(e)(2)(ii) as part of its amendments to the Lead and Copper Rule. *See* 72 Fed. Reg. 65574 (Oct. 10, 2007). The added sentence stated a condition subsequent to commencement of reduced monitoring. Thus, 40 C.F.R. 141.87(e)(2)(ii) now reads as follows:

A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in paragraph (e)(1) of this section to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in § 141.89 (a)(1)(ii), that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L for copper in § 141.80(c)(2), and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under § 141.82(f). Monitoring conducted every three years shall be done no later than every third calendar year. 40 C.F.R. 141.87(e)(2)(ii) (2007), as amended at 72 Fed. Reg. 65574 (Oct. 10, 2007).

The Board added the new federal sentence as subsection (e)(2)(B)(iv) of Section 611.357, leaving the ending period at the end of subsection (e)(2)(B)(iii), and adding language in subsection (e)(2)(B) to clarify that reduced monitoring is possible where the preconditions of the first three subsections are met, but that it is subject to the limitation of the fourth subsection. Thus, the amendments to Section 611.357(e)(2)(B) state as follows after today's corrections to the August 7, 2007 proposal for public comment:

- B) A water supplier may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in subsection (e)(1) of this Section to every three years if it demonstrates ~~the following~~ that it has fulfilled the conditions set forth in subsections (e)(2)(B)(i) through (e)(2)(B)(iii) of this Section during two consecutive monitoring periods, subject to the limitation of subsection (e)(2)(B)(iv) of this Section.
- i) ~~That~~ The supplier must demonstrate that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in Section 611.359(a)(1)(B);
  - ii) ~~That~~ The supplier must demonstrate that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l for copper in Section 611.350(c)(2); and
  - iii) ~~That~~ The supplier must demonstrate that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Agency under Section 611.352(f).
  - iv) Monitoring conducted every three years must be done no later than every third calendar year.

JCAR stated in PC 6 that subsections (e)(2)(B)(i) through (e)(2)(B)(iv) are awkward, and expressed a desire for an alternative structure for this provision. The Board agrees, but cannot devise better without resort to wording and structure that would depart even further from the wording and structure of corresponding 40 C.F.R. 141.87(e)(2)(ii). The wording chosen by the Board for this provision is similar to that used in similar circumstances in other identical-in-substance proceedings.<sup>7</sup> Generally, the Board has found that this structure was clear when

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<sup>7</sup> Examples are Sections 611.381(b)(2)(C) and (b)(2)(D); 611.1007(c)(1)(E); and 611.1021(f)(3), (f)(3)(E), (f)(4), (f)(4)(C), (f)(7), and (f)(7)(C) in the prior SDWA update docket. SDWA Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-2, and SDWA Update, USEPA Regulations (July 1, 2006 through December 31, 2006), R07-11 (consol.) (July 26, 2007), slip op. at 214-16.

accompanied with language in the preamble that clarifies the relationship among the various coordinate subsections in the provision.

The basic logical structure of Section 611.357(e)(2)(B), as proposed by the Board, is “X if A, B, and C, but subject to D.” The Board believes that this chosen structure is clear and unambiguous, and the best alternatives for clarity would require many more words to retain this level of clarity. Other alternatives, such as following the two-sentence structure in a single subsection, as used by USEPA, would lose clarity. The Board believes that the punctuation given the subsections, together with the use of the words, “if it demonstrates that it has fulfilled the conditions set forth in subsections (e)(2)(B)(i) through (e)(2)(B)(iii) . . . , subject to the limitation of subsection (e)(2)(B)(iv) of this Section,” makes the requirement clear.

In the course of seeking better wording and structure for subsection (b)(2)(B), however, the Board made two changes in the wording. The Board changed “subject to the conditions of subsection (e)(2)(B)(iv)” to “subject to the limitation of subsection (e)(2)(B)(iv).” The word “limitation” more closely describes the nature of subsection (b)(2)(B)(iv) than does the word “conditions.” The Board also added the words “the supplier must demonstrate” to each of first three subsections, which state the conditions precedent to the triennial monitoring.

The Board believes that the language and structure chosen, combined with the changes made today, state the federal requirements with optimal clarity. The option chosen does not so significantly depart from the language and structure used by USEPA as to create ambiguity through an attempt to clarify the provision. The Board invites public comment on the wording and structure chosen for Section 611.357(e)(2)(ii).

### **CORRECTIONS TO THE R07-2/R07-11 AMENDMENTS**

| Section   | Source        | Revision(s)   |
|---|---------------|---|
| 611.101 “initial distribution system evaluation”            | Agency, Board | Correct “Subpart X” to “Subpart I of this Part”   |
| 611.101 “initial distribution system evaluation” Board note | Agency, Board | Correct “40 CFR 611.601(c) (2006)” to “40 CFR 141.601(c) (2007)”  |
| 611.101 “wellhead protection area”                          | Agency, Board | Correct “Section 17.2 of the Act (415 ILCS 5/17.2)” to “Section 17.1 of the Act [415 ILCS 5/17.1]”  |
| 611.381(a)  | Board         | Correct the reference to Agency approval of alternative method by changing “their equivalents as” to “alternative methods” and adding “pursuant to Section 611.480” |

|                  |        |  |
|------------------|--------|--|
| 611.480          | Board  | Corrected “may approve” to “must approve” and added “if it determines that USEPA has approved the method as an alternative method by adding it to 40 CFR 141 and that the Board has not incorporated the federal approval into this Part 611”; corrected “alternate” to “alternative” (three times); corrected the procedure by removing the sentence, “The Agency must approve an alternate technique if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any MCL.” |
| 611.526(c)       | Board  | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or in accordance with an alternative method approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma   |
| 611.531 preamble | Board  | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by commas   |
| 611.611(a)       | Board  | Correct “alternative approved” to “alternative method approved”  |
| 611.612(f)       | Board  | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma  |
| 611.645 preamble | Board  | Corrected “equivalent methods” to “alternative methods”  |
| 611.720(a)       | Board  | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma  |
| 611.801(b)       | Agency | Correct “evaluations or the hydrogeologic sensitivity” to “evaluations of the hydrogeologic sensitivity”   |
| 611.802(c)(2)    | Board  | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma  |
| 611.920(c)       | Board  | Correct “subsections (c)(1)(A) through (c)(1)(D)” to “subsections (c)(1)(A) through (c)(1)(E)”; correct “subsections (c)(1)(E) through (c)(1)(G)” to “subsections (c)(1)(F) through (c)(1)(H)”   |
| 611.920(c)(1)(A) | Board  | Correct the entry by adding the omitted language “is not part of a combined system, or a supplier that serves the largest population in a combined distribution system, and which” from the headers in the table at corresponding 40 C.F.R. 141.600(c)(1)  |

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|------------------|------------------|---|
| 611.920(c)(1)(B) | Board            | Correct the entry by adding the omitted language “is not part of a combined system, or a supplier that serves the largest population in a combined distribution system, and which” from the headers in the table at corresponding 40 C.F.R. 141.600(c)(1) |
| 611.920(c)(1)(C) | Board            | Correct the entry by adding the omitted language “is not part of a combined system, or a supplier that serves the largest population in a combined distribution system, and which” from the headers in the table at corresponding 40 C.F.R. 141.600(c)(1) |
| 611.920(c)(1)(D) | Board            | Correct the entry by adding the omitted language “is not part of a combined system, or a supplier that serves the largest population in a combined distribution system, and which” from the headers in the table at corresponding 40 C.F.R. 141.600(c)(1) |
| 611.920(c)(1)(E) | Agency,<br>Board | Correct the listing of action deadlines by adding the omitted entry that appears as “(v)” in the table at corresponding 40 C.F.R. 141.600(c)(1), with revisions to the federal format and language  |
| 611.920(c)(1)(F) | Agency           | Re-number the subsection to accommodate the addition of subsection (c)(1)(E)  |
| 611.920(c)(1)(G) | Agency           | Re-number the subsection to accommodate the addition of subsection (c)(1)(E)  |
| 611.920(c)(1)(H) | Agency           | Re-number the subsection to accommodate the addition of subsection (c)(1)(E)  |
| 611.1004(a)      | Board            | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma   |
| 611.1004(b)      | Board            | Correct the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma   |
| 611.1007(c)(1)   | Board            | Correct “analyzed” to “must analyze”; corrected the recitation of methods by adding a reference to Agency approval of alternative method “or alternative methods approved by the Agency pursuant to Section 611.480” as a parenthetical offset by a comma |

**MISCELLANEOUS REVISIONS TO THE AMENDMENTS  
SINCE AUGUST 7, 2008 NOT INCLUDED IN THE TEXT OF  
THIS SUPPLEMENTAL OPINION AND ORDER**

The table below lists a number of corrections and amendments that are not based on current federal amendments. The need for corrections has become evident since the August 7,

2008 proposal for public comment, including corrections based on comments from JCAR. The amendments will appear in the new Notice of Proposed Amendments that will appear in the *Illinois Register*, but they are not included in the text presented in this supplemental opinion and order.

| Section   | Source | Revision(s)   |
|---|--------|---|
| 611.101 “approved source of bottled water” Board note     | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “CT <sub>99,9</sub> ” Board note                  | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “40/30 certification” Board note                  | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “groundwater system” Board note                   | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition (twice), including removal of the obsolete <i>Federal Register</i> citation       |
| 611.101 “hydrogeologic sensitivity assessment” Board note | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation               |
| 611.101 “inactivation ratio” Board note                   | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “inorganic contaminants” Board note               | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “MFL” Board note                                  | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “mixed system” Board note                         | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “radioactive contaminants” Board note             | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “reliably and consistently” Board note            | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.101 “sanitary survey” Board note                      | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition (twice), including removal of the obsolete <i>Federal Register</i> citation       |
| 611.101 “significant deficiency” Board note               | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition (twice), including removal of the obsolete <i>Federal Register</i> citation       |
| 611.101 “special irrigation district” Board note          | Board  | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition; updated the citation to the <i>United States Code</i> to the most recent edition |

|   |       |   |
|---|-------|---|
| 611.101 “standard monitoring” Board note                      | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition |
| 611.101 “SWS” Board note                                      | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition |
| 611.101 “system-specific study plan” Board note               | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition |
| 611.101 “very small system waiver” Board note                 | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition |
| 611.101 “wellhead protection area”                            | Board | Changed the parentheses to brackets for the citation “[415 ILCS 5/17.1]”                  |
| 611.101 “wellhead protection program” Board note              | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition |
| 611.101 Board note  | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition |
| 611.102(b), “AWWA,” Standard Methods, 20th ed., Method 9221 A | JCAR  | Add underlining to the added method   |
| 611.102(b), “AWWA,” Standard Methods, 20th ed., Method 9221 B | JCAR  | Add underlining to the added method   |
| 611.102(b), “AWWA,” Standard Methods, 20th ed., Method 9221 C | JCAR  | Add underlining to the added method   |
| 611.102(b), “AWWA,” Standard Methods, 20th ed., Method 9221 D | JCAR  | Add underlining to the added method   |
| 611.102(b), “AWWA,” Standard Methods, 20th ed., Method 9221 E | JCAR  | Add underlining to the added method   |
| 611.102(b), “AWWA,” Standard Methods, 20th ed., Method 9221 F | JCAR  | Add underlining to the added method   |

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|--|----------------|---|
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9222 A | JCAR           | Add underlining to the added method   |
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9222 B | JCAR           | Add underlining to the added method   |
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9222 C | JCAR           | Add underlining to the added method   |
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9222 D | JCAR           | Add underlining to the added method   |
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9222 G | JCAR           | Add underlining to the added method   |
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9223   | JCAR           | Add underlining to the added method   |
| 611.102(b),<br>“AWWA,” Standard<br>Methods, 20th ed.,<br>Method 9223 B | JCAR           | Add underlining to the added method   |
| 611.350 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.351 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.353 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.354 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.355 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.356 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.357(e)(2)(B)   | JCAR,<br>Board | Correct “subsections (g)(4)(C)(i) through (g)(4)(C)(iii)” to “subsections (e)(2)(B)(i) through (e)(2)(B)(iii)”; changed “subject to the conditions” to “subject to the limitation”; correct “subsection (g)(4)(C)(iii)” to “subsection (e)(2)(B)(iv)” |
| 611.357(e)(2)(B)(i)  | Board          | Added “the supplier must demonstrate”   |
| 611.357(e)(2)(B)(ii)   | Board          | Added “the supplier must demonstrate”   |
| 611.357(e)(2)(B)(iii)  | Board          | Added “the supplier must demonstrate”   |
| 611.357 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.358 Board note   | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.359(a) Board note  | JCAR           | Correct “October 12, 2007” to “October 10, 2007”  |

|                    |       |   |
|--------------------|-------|---|
| 611.360 Board note | JCAR  | Correct “October 12, 2007” to “October 10, 2007”  |
| 611.480 Board note | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |
| 611.801 Board note | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition (twice), including removal of the obsolete <i>Federal Register</i> citation (twice) |
| 611.920 Board note | Board | Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition   |

### **TEXT OF THE CHANGES TO THE AMENDMENTS**

The corrections to the text of the August 7, 2008 proposal for public comment follow:

#### Section 611.101      Definitions

As used in this Part, the following terms have the given meanings:

\* \* \* \* \*

“Approved source of bottled water,” for the purposes of Section 611.130(d)(4), means a source of water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, that has been inspected and the water sampled, analyzed, and found to be a safe and sanitary quality according to applicable laws and regulations of State and local government agencies having jurisdiction, as evidenced by the presence in the plant of current certificates or notations of approval from each government agency or agencies having jurisdiction over the source, the water it bottles, and the distribution of the water in commerce.

BOARD NOTE: Derived from 40 CFR 142.62(g)(2) and 21 CFR 129.3(a)-(2006) (2007). The Board cannot compile an exhaustive listing of all federal, State, and local laws to which bottled water and bottling water may be subjected. However, the statutes and regulations of which the Board is aware are the following: the Illinois Food, Drug and Cosmetic Act [410 ILCS 620], the Bottled Water Act [815 ILCS 310], the DPH Water Well Construction Code (77 Ill. Adm. Code 920), the DPH Water Well Pump Installation Code (77 Ill. Adm. Code 925), the federal bottled water quality standards (21 CFR 103.35), the federal drinking water processing and bottling standards (21 CFR 129), the federal Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (21 CFR 110), the federal Fair Packaging and Labeling Act (15 USC 1451 et seq.), and the federal Fair Packaging and Labeling regulations (21 CFR 201).

\* \* \* \* \*

“CT<sub>99.9</sub>” is the CT value required for 99.9 percent (3-log) inactivation of *Giardia lamblia* cysts. CT<sub>99.9</sub> for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1 and 3.1 of Appendix B of this Part. (See “Inactivation Ratio.”)

BOARD NOTE: Derived from the definition of “CT” in 40 CFR 141.2-(2006) (2007).

\* \* \* \* \*

“40/30 certification” means the certification, submitted by the supplier to the Agency pursuant to Section 611.923, that the supplier had no TTHM or HAA5 monitoring violations, and that no individual sample from its system exceeded 0.040 mg/l TTHM or 0.030 mg/l HAA5 during eight consecutive calendar quarters.

BOARD NOTE: Derived from 40 CFR 141.603(a)-(2006) (2007).

\* \* \* \* \*

“Groundwater system” or “GWS” means a public water supply (PWS) that uses only groundwater sources, including a consecutive system that receives finished groundwater.

BOARD NOTE: Derived from 40 CFR 141.23(b)(2) and 141.24(f)(2) note (2006) and 40 CFR 141.400(b), as added at 71 Fed. Reg. 65576 (Nov. 8, 2006) (2007).

\* \* \* \* \*

“Hydrogeologic sensitivity assessment,” for the purposes of Subpart S of this Part, means a determination of whether a GWS supplier obtains water from a hydrogeologically sensitive setting.

BOARD NOTE: Derived from 40 CFR 141.400(c)(5), as added at 71 Fed. Reg. 65574 (Nov. 8, 2006) (2007).

“Inactivation ratio” or “Ai” means as follows:

$$A_i = CT_{\text{calc}}/CT_{99.9}$$

The sum of the inactivation ratios, or “total inactivation ratio” (B) is calculated by adding together the inactivation ratio for each disinfection sequence as follows:

$$B = \sum(A_i)$$

A total inactivation ratio equal to or greater than 1.0 is assumed to provide a 3-log inactivation of *Giardia lamblia* cysts.

BOARD NOTE: Derived from the definition of “CT” in 40 CFR 141.2-(2006) (2007).

\* \* \* \* \*

“Initial distribution system evaluation” or “IDSE” means the evaluation, performed by the supplier pursuant to Section 611.921(c), to determine the locations in a distribution system that are representative of high TTHM and HAA5 concentrations throughout the distribution system. An IDSE is used in conjunction with, but is distinct from, the compliance monitoring undertaken to identify and select monitoring locations used to determine compliance with Subpart X I of this Part.

BOARD NOTE: Derived from 40 CFR ~~611.601(e) (2006)~~ 141.601(c) (2007).

“Inorganic contaminants” or “IOCs” refers to that group of contaminants designated as such in United States Environmental Protection Agency (USEPA) regulatory discussions and guidance documents. IOCs include antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, mercury, nickel, nitrate, nitrite, selenium, and thallium.

BOARD NOTE: The IOCs are derived from 40 CFR 141.23(a)(4) ~~(2006)~~ (2007).

\* \* \* \* \*

“MFL” means millions of fibers per liter larger than 10 micrometers.

BOARD NOTE: Derived from 40 CFR 141.23(a)(4)(i) ~~(2006)~~ (2007).

\* \* \* \* \*

“Mixed system” means a PWS that uses both groundwater and surface water sources.

BOARD NOTE: Drawn from 40 CFR 141.23(b)(2) and 141.24(f)(2) note ~~(2006)~~ (2007).

\* \* \* \* \*

“Radioactive contaminants” refers to that group of contaminants designated “radioactive contaminants” in USEPA regulatory discussions and guidance documents. “Radioactive contaminants” include tritium, strontium-89, strontium-90, iodine-131, cesium-134, gross beta emitters, and other nuclides.

BOARD NOTE: Derived from 40 CFR 141.25(c) Table B ~~(2006)~~ (2007). These radioactive contaminants must be reported in Consumer Confidence Reports under Subpart U of this Part when they are detected above the levels indicated in Section 611.720(c)(3).

“Reliably and consistently” below a specified level for a contaminant means an Agency determination based on analytical results following the initial detection of a contaminant to determine the qualitative condition of water from an individual sampling point or source. The Agency must base this determination on the consistency of analytical results, the degree below the MCL, the susceptibility of source water to variation, and other vulnerability factors pertinent to the contaminant detected that may influence the quality of water.

BOARD NOTE: Derived from 40 CFR 141.23(b)(9), 141.24(f)(11)(ii), and 141.24(f)(11)(iii)-~~(2006)~~ (2007).

\* \* \* \* \*

“Sanitary survey” means an onsite review of the delineated WHPAs (identifying sources of contamination within the WHPAs and evaluations or the hydrogeologic sensitivity of the delineated WHPAs conducted under source water assessments or utilizing other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system (PWS) to evaluate the adequacy of the system, its sources, and operations for the production and distribution of safe drinking water.

BOARD NOTE: Derived from 40 CFR 141.2-~~(2006)~~ and 40 CFR 142.16(o)(2); as added at 71 Fed. Reg. 65574 (Nov. 8, 2006) (2007).

\* \* \* \* \*

“Significant deficiency” means a deficiency identified by the Agency in a groundwater system pursuant to Section 611.803. A significant deficiency might include, but is not limited to, a defect in system design, operation, or maintenance or a failure or malfunction of the sources, treatment, storage, or distribution system that the Agency determines to be causing or have potential for causing the introduction of contamination into the water delivered to consumers.

BOARD NOTE: Derived from 40 CFR 142.16(o)(2)(iv), as added at 71 Fed. Reg. 65574 (Nov. 8, 2006) (2007). The Agency must submit to USEPA a definition and description of at least one significant deficiency in each of the eight sanitary survey elements listed in Section 611.801(c) as part of the federal primacy requirements. The Board added the general description of what a significant deficiency might include in non-limiting terms, in order to provide this important definition within the body of the Illinois rules. No Agency submission to USEPA can provide definition within the context of Board regulations.

\* \* \* \* \*

“Special irrigation district” means an irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential use or similar use, where the system or the residential users or similar users of the system comply with either of the following exclusion conditions:

The Agency determines by issuing a SEP that alternative water is provided for residential use or similar uses for drinking or cooking to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulations; or

The Agency determines by issuing a SEP that the water provided for

residential use or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

BOARD NOTE: Derived from 40 CFR 141.2-~~(2006)~~ (2007) and sections 1401(4)(B)(i)(II) and (4)(B)(i)(III) of SDWA (42 USC 300f(4)(B)(i)(II) and (4)(B)(i)(III)-~~(2000)~~ (2007)).

“Standard monitoring” means the monitoring, performed by the supplier pursuant to Section 611.921(a) and (b), at various specified locations in a distribution system including near entry points, at points that represent the average residence time in the distribution system, and at points in the distribution system that are representative of high TTHM and HAA5 concentrations throughout the distribution system.

BOARD NOTE: Derived from 40 CFR 141.601(a) and (b)-~~(2006)~~ (2007).

\* \* \* \* \*

“SWS” means “surface water system,” a public water supply (PWS) that uses only surface water sources, including “groundwater under the direct influence of surface water.”

BOARD NOTE: Derived from 40 CFR 141.23(b)(2) and 141.24(f)(2) note-~~(2006)~~ (2007).

“System-specific study plan” means the plan, submitted by the supplier to the Agency pursuant to Section 611.922, for studying the occurrence of TTHM and HAA5 in a supplier’s distribution system based on either monitoring results or modelling of the system.

BOARD NOTE: Derived from 40 CFR 141.602-~~(2006)~~ (2007).

\* \* \* \* \*

“Very small system waiver” means the conditional waiver from the requirements of Subpart W of this Part applicable to a supplier that serves fewer than 500 persons and which has taken TTHM and HAA5 samples pursuant to Subpart I of this Part.

BOARD NOTE: Derived from 40 CFR 141.604-~~(2006)~~ (2007).

\* \* \* \* \*

“Wellhead protection area” or “WHPA” means the surface and subsurface recharge area surrounding a community water supply well or well field, delineated outside of any applicable setback zones (pursuant to Section ~~17.2-17.1~~ of the Act ~~{[415 ILCS-5/17.2 5/17.1]}~~) pursuant to Illinois’ Wellhead Protection Program, through which contaminants are reasonably likely to move toward such well or well field.

BOARD NOTE: The Agency uses two guidance documents for identification of WHPAs:

\* \* \* \* \*

“Wellhead protection program” means the wellhead protection program for the State of Illinois, approved by USEPA under Section 1428 of the SDWA, 42 USC 300h-7. BOARD NOTE: Derived from 40 CFR 141.71(b)~~(2006)~~(2007). The wellhead protection program includes the “groundwater protection needs assessment” under Section 17.1 of the Act [415 ILCS 5/17.1] and 35 Ill. Adm. Code 615-617.

\* \* \* \* \*

BOARD NOTE: Derived from 40 CFR 141.2~~(2006)~~(2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.102      Incorporations by Reference

\* \* \* \* \*

b)      The Board incorporates the following publications by reference:

\* \* \* \* \*

AWWA. American Water Works Association et al., 6666 West Quincy Ave., Denver, CO 80235 (303-794-7711).

\* \* \* \* \*

“Standard Methods for the Examination of Water and Wastewater,” 21st Edition, 2005 (referred to as “Standard Methods, 21st ed.”).

\* \* \* \* \*

Method 9221 A, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9221 B, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Standard Total Coliform Fermentation Technique, referenced in Sections 611.526 and 611.531.

Method 9221 C, Multiple-Tube Fermentation Technique

for Members of the Coliform Group, Estimation of Bacterial Density, referenced in Sections 611.526 and 611.531.

Method 9221 D, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Presence-Absence (P-A) Coliform Test, referenced in Sections 611.526.

Method 9221 E, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Fecal Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9221 F, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Escherichia Coli Procedure (Proposed), referenced in Section 611.802.

Method 9222 A, Membrane Filter Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9222 B, Membrane Filter Technique for Members of the Coliform Group, Standard Total Coliform Membrane Filter Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 C, Membrane Filter Technique for Members of the Coliform Group, Delayed-Incubation Total Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 D, Membrane Filter Technique for Members of the Coliform Group, Fecal Coliform Membrane Filter Procedure, referenced in Section 611.531.

Method 9222 G, Membrane Filter Technique for Members of the Coliform Group, MF Partition Procedures, referenced in Section 611.526.

Method 9223, Chromogenic Substrate Coliform Test (also referred to as the variations “Autoanalysis Colilert System” and “Colisure Test”), referenced in Sections 611.526, 611.531.

Method 9223 B, Chromogenic Substrate Coliform Test (also referred to as the variations “Autoanalysis Colilert System” and “Colisure Test”), referenced in Sections 611.802 and 611.1004.

\*\*\*\*\*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.350      General Requirements

\*\*\*\*\*

BOARD NOTE: Derived from 40 CFR 141.80-~~(2002)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.351      Applicability of Corrosion Control

\*\*\*\*\*

BOARD NOTE: Derived from 40 CFR 141.81-~~(2003)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.353      Source Water Treatment

\*\*\*\*\*

BOARD NOTE: Derived from 40 CFR 141.83-~~(2002)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.354      Lead Service Line Replacement

\*\*\*\*\*

BOARD NOTE: Derived from 40 CFR 141.84-~~(2003)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.355      Public Education and Supplemental Monitoring

\*\*\*\*\*

BOARD NOTE: Derived from 40 CFR 141.85-~~(2002)~~ (2007), as amended at 57782 (October

10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.356 Tap Water Monitoring for Lead and Copper

\* \* \* \* \*

BOARD NOTE: Derived from 40 CFR 141.86-(2003) (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.357 Monitoring for Water Quality Parameters

\* \* \* \* \*

e) Reduced monitoring.

\* \* \* \* \*

2) Reduction in monitoring frequency.

\* \* \* \* \*

B) A water supplier may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in subsection (e)(1) of this Section to every three years if it demonstrates the following that it has fulfilled the conditions set forth in subsections (e)(2)(B)(i) through (e)(2)(B)(iii) of this Section during two consecutive monitoring periods; subject to the limitation of subsection (e)(2)(B)(iv) of this Section.

i) ~~That~~ The supplier must demonstrate that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in Section 611.359(a)(1)(B);

ii) ~~That~~ The supplier must demonstrate that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l for copper in Section 611.350(c)(2); and

iii) ~~That~~ The supplier must demonstrate that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Agency under Section 611.352(f).

\* \* \* \* \*

BOARD NOTE: Derived from 40 CFR 141.87-~~(2002)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.358      Monitoring for Lead and Copper in Source Water

\* \* \* \* \*

BOARD NOTE: Derived from 40 CFR 141.88-~~(2003)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.359      Analytical Methods

\* \* \* \* \*

- a)      Analyses for lead and copper performed for the purposes of compliance with this Subpart G must only be conducted by laboratories that have been certified by USEPA or the Agency. To obtain certification to conduct analyses for lead and copper, laboratories must do the following:

\* \* \* \* \*

BOARD NOTE: Subsection (a) is derived from 40 CFR 141.89(a) and (a)(1) ~~(2005)~~ (2007), as amended at 57782 (October 10, 2007).

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.360      Reporting

\* \* \* \* \*

BOARD NOTE: Derived from 40 CFR 141.90-~~(2003)~~ (2007), as amended at 57782 (October 10, 2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.381      Analytical Requirements

- a)      A supplier must use only the analytical methods specified in this Section or ~~their~~

~~equivalents as alternative methods~~ approved by the Agency pursuant to Section 611.480 to demonstrate compliance with the requirements of this Subpart I and with the requirements of Subparts W and Y of this Part.

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 611.480 Alternative Analytical Techniques

The Agency ~~may~~must approve, by a SEP issued pursuant to Section 611.110, an alternative analytical technique if it determines that USEPA has approved the method as an alternative method by adding it to 40 CFR 141 and the Board has not incorporated the federal approval into this Part 611. The Agency must not approve an alternative analytical technique without the concurrence of USEPA. ~~The Agency must approve an alternate technique if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any MCL.~~ The use of the alternative analytical technique must not decrease the frequency of monitoring required by this Part.

BOARD NOTE: Derived from 40 CFR 141.27-(2002)(2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 611.526 Analytical Methodology

\* \* \* \* \*

- c) Suppliers must conduct total coliform analyses in accordance with one of the following analytical methods, incorporated by reference in Section 611.102, or in accordance with an alternative method approved by the Agency pursuant to Section 611.480 (the time from sample collection to initiation of analysis may not exceed 30 hours, and the supplier is encouraged but not required to hold samples below 10° C during transit):

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 611.531 Analytical Requirements

The analytical methods specified in this Section, or alternative methods approved by the Agency pursuant to Section 611.480, must be used to demonstrate compliance with the requirements of only 611.Subpart B; they do not apply to analyses performed for the purposes of Sections 611.521 through 611.527 of this Subpart L. Measurements for pH, temperature, turbidity, and RDCs must be conducted under the supervision of a certified operator. Measurements for total coliforms, fecal coliforms and HPC must be conducted by a laboratory certified by the Agency

to do such analysis. The following procedures must be performed by the following methods, incorporated by reference in Section 611.102:

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 611.611 Inorganic Analysis

Analytical methods are from documents incorporated by reference in Section 611.102. These are mostly referenced by a short name defined by Section 611.102(a). Other abbreviations are defined in Section 611.101.

- a) Analysis for the following contaminants must be conducted using the following methods or an alternative method approved pursuant to Section 611.480. Criteria for analyzing arsenic, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical procedures, are contained in USEPA Technical Notes, incorporated by reference in Section 611.102.

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 611.612 Monitoring Requirements for Old Inorganic MCLs

\* \* \* \* \*

- f) Except for arsenic, for which analyses must be made in accordance with Section 611.611, analyses conducted to determine compliance with the old MCLs of Section 611.300 must be made in accordance with the following methods, incorporated by reference in Section 611.102, or alternative methods approved by the Agency pursuant to Section 611.480.

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 611.645 Analytical Methods for Organic Chemical Contaminants

Analysis for the Section 611.311(a) VOCs under Section 611.646; the Section 611.311(c) SOCs under Section 611.648; the Section 611.310 old MCLs under Section 611.641; and for THMs, TTHMs, and TTHM potential must be conducted using the methods listed in this Section or by equivalent alternative methods as approved by the Agency pursuant to Section 611.480. All methods are from USEPA Organic Methods, unless otherwise indicated. All methods are incorporated by reference in Section 611.102. Other required analytical test procedures germane

to the conduct of these analyses are contained in the USEPA document, “Technical Notes of Drinking Water Methods,” incorporated by reference in Section 611.102.

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.720 Analytical Methods

- a) The methods specified below, or alternative methods approved by the Agency pursuant to Section 611.480, incorporated by reference in Section 611.102, are to be used to determine compliance with Section 611.330, except in cases where alternative methods have been approved in accordance with Section 611.480.

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.801 Sanitary Surveys for GWS Suppliers

\* \* \* \* \*

- b) For the purposes of this Subpart S, a “sanitary survey,” as conducted by the Agency, includes but is not limited to, an onsite review of the delineated WHPAs (identifying sources of contamination within the WHPAs and evaluations ~~of~~ of the hydrogeologic sensitivity of the delineated WHPAs conducted under source water assessments or utilizing other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

\* \* \* \* \*

BOARD NOTE: Subsections (a) through (c) are derived from 40 CFR 141.401, ~~as added at 71 Fed. Reg. 65574 (Nov. 8, 2006) (2007).~~ Subsection (d) is derived from 40 CFR 142.16(o)(2), ~~as added at 71 Fed. Reg. 65574 (Nov. 8, 2006) (2007).~~

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.802 Groundwater Source Microbial Monitoring and Analytical Methods

\* \* \* \* \*

- c) Analytical methods.

\* \* \* \* \*

- 2) A GWS supplier must analyze all groundwater source samples collected pursuant to subsection (a) of this Section using one of the analytical methods listed in subsections (c)(2)(A) through (c)(2)(C) of this Section, or alternative methods approved by the Agency pursuant to Section 611.480, subject to the limitations of subsection (c)(2)(D) of this Section, for the presence of E. coli, enterococci, or coliphage:

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.920      General Requirements

\* \* \* \* \*

- c) Schedule. A supplier must comply with the requirements of this Subpart W on the schedule provided in subsection (c)(1) of this Section based on its system type, as set forth in the applicable of subsections (c)(1)(A) through ~~(c)(1)(D)~~ (c)(1)(E) of this Section, subject to the conditions of subsections ~~(c)(1)(E)~~ (c)(1)(F) through ~~(c)(1)(G)~~ (c)(1)(H) of this Section:
- 1) Compliance dates.
    - A) A supplier that is not part of a combined distribution system, or a supplier that serves the largest population in a combined distribution system, and which serves a population of 100,000 or more persons must either have submitted its standard monitoring plan, its system-specific study plan, or its 40/30 certification or must have obtained or have been subject to a very small system waiver before October 1, 2006. The supplier must further complete its standard monitoring or system-specific study before September 30, 2008 and submit its IDSE report to the Agency before January 1, 2009.
    - B) A supplier that is not part of a combined distribution system, or a supplier that serves the largest population in a combined distribution system, and which serves a population of 50,000 to 99,999 persons must either have submitted its standard monitoring plan, its system-specific study plan, or its 40/30 certification or must have obtained or have been subject to a very small system waiver before April 1, 2007. The supplier must further complete its standard monitoring or system-specific study before March 31, 2009 and submit its IDSE report to the Agency before July 1, 2009.
    - C) A supplier that is not part of a combined distribution system, or a supplier that serves the largest population in a combined

distribution system, and which serves a population of 10,000 to 49,999 persons must submit its standard monitoring plan, its system-specific study plan, or its 40/30 certification or must obtain or be subject to a very small system waiver before October 1, 2007. The supplier must further complete its standard monitoring or system-specific study before September 30, 2009 and submit its IDSE report to the Agency before January 1, 2010.

- D) A supplier that is not part of a combined distribution system, or a supplier that serves the largest population in a combined distribution system, and which serves a population of fewer than 10,000 persons (and which is a CWS) must submit its standard monitoring plan, its system-specific study plan, or its 40/30 certification or must obtain or be subject to a very small system waiver before April 1, 2008. The supplier must further complete its standard monitoring or system-specific study before March 31, 2010 and submit its IDSE report to the Agency before July 1, 2010.
- E) A supplier that is part of a combined distribution system which does not serve the largest population in the combined system, which is a wholesale system supplier or a consecutive system supplier, must submit its standard monitoring plan, its system-specific study plan, or its 40/30 certification or must obtain or be subject to a very small system waiver; must further complete its standard monitoring or system-specific study; and submit its IDSE report to the Agency at the same time as the supplier in the combined system that has the earliest compliance date.
- ~~E~~F) If, within 12 months after the date when submission of the standard monitoring plan, the system-specific study plan, or the 40/30 certification or becoming subject to a very small system waiver is due, as identified in the applicable of subsections (a)(1) through (a)(4) of this Section, the Agency does not approve a supplier's plan or notify the supplier that it has not yet completed its review, the supplier may consider the plan that it submitted as approved. The supplier must implement that plan, and it must complete standard monitoring or a system-specific study no later than the date when completion of the standard monitoring or system-specific study is due, as identified in the applicable of subsections (a)(1) through (a)(4) of this Section.
- ~~E~~G) The supplier must submit its 40/30 certification pursuant to Section 611.923 before the date indicated in the applicable of subsections (a)(1) through (a)(4) of this Section.

GH) If, within three months after the due date for submission of the IDSE report identified in this subsection (c)(1) (nine months after this date if the supplier must comply on the schedule in subsection (c)(1)(C) of this Section), the Agency does not approve the supplier's IDSE report or notify the supplier that it has not yet completed its review, the supplier may consider the report that it submitted to the Agency, and the supplier must implement the recommended Subpart Y monitoring as required.

\* \* \* \* \*

BOARD NOTE: Derived from 40 CFR 141.600-(2006), (2007).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.1004 Source Water Monitoring Requirements: Analytical Methods

- a) Cryptosporidium. A supplier must analyze for Cryptosporidium using USEPA OGWDW Methods, Method 1623 (05) or USEPA OGWDW Methods, Method 1622 (05), or alternative methods approved by the Agency pursuant to Section 611.480, each incorporated by reference in Section 611.102.

\* \* \* \* \*

- b) E. coli. A supplier must use methods for enumeration of E. coli in source water approved in 40 CFR 136.3(a), or alternative methods approved by the Agency pursuant to Section 611.480, incorporated by reference in Section 611.102.

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 611.1007 Source Water Monitoring Requirements: Grandfathering Previously Collected Data

\* \* \* \* \*

- c) Cryptosporidium sample analysis. The analysis of Cryptosporidium samples must meet the criteria in this subsection (c).
  - 1) Laboratories ~~analyzed~~ must analyze Cryptosporidium samples using one of the following analytical methods, or alternative methods approved by the Agency pursuant to Section 611.480:

\* \* \* \* \*

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above supplemental opinion and order on September 4, 2008, 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