

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
) R 2022-018
PROPOSED AMENDMENTS TO)
GROUNDWATER QUALITY) (Rulemaking – Public Water Supply)
(35 ILL. ADM. CODE 620))

NOTICE OF FILING

To: ALL PARTIES ON THE SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, the **PRE-FILED ANSWERS OF THOMAS A. HILBERT ON BEHALF OF NATIONAL WASTE & RECYCLING ASSOCIATION**, copies of which are hereby served upon you.

Dated: November 23, 2022

By /s/ Claire A. Manning

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QUESTIONS FROM THE ILLINOIS POLLUTION CONTROL BOARD

32. *On page 3, regarding performing groundwater impact Assessment (GIA) for PFAS constituents, you state that GIA is highly sensitive to the concentration difference between the modeled leachate constituent and the applicable groundwater quality standard.*

- a. *Please clarify whether the applicable PFAS groundwater quality standards for landfills under 35 Ill Adm Code 811.320 would be based on Part 620 PFAS standards, or the site-specific background concentrations of the PFAS constituents.*

ANSWER: Typically for most operating sites that meet the design standards of 35 Ill Adm Code 811, it is anticipated the PFAS standards would be based on the Class I concentration. However, at the groundwater levels proposed and absent any comprehensive study on PFAS concentrations in the groundwater around the state, it is not known if the groundwater quality would already exceed the proposed standards. If the groundwater in the upgradient area of the landfill contained PFAS above the proposed standards and it could be shown that it was not associated with the landfill, the applicable groundwater quality standard would be the statistically derived background value.

- b. *Please comment on whether a landfill in Illinois could be required to monitor PFAS constituents and establish background-based groundwater quality standards under Part 811 if PFAS constituents are detected in the landfill leachate.*

ANSWER: Based on existing information from landfill facilities, PFAS constituents are expected in leachate. It is unclear whether the presence of PFAS in leachate would automatically trigger groundwater monitoring based on the presence of PFAS in the leachate. 35 Ill Adm Code 811.319(a)(2)(A) is the regulatory reference linking groundwater monitoring to the presence of a constituent in leachate but that reference only applies to inorganic constituents. 35 Ill Adm Code 811.319(a)(3)(A) requires organics monitoring to include the constituents listed in 40 CFR 141.40 which does include the PFAS constituents proposed to be added to the Part 620 standards. Yet, 40 CFR 141.40 is, by its terms, only applicable to owners and operators of public water systems.

33. *On page 3, you state, “The groundwater standard concentrations proposed for PFOA and PFOS are at levels that are up to 1000 times higher than the typical leachate concentrations.” Please clarify whether you meant the proposed standards are 1000 times lower than typical leachate concentrations. If not, comment on why compliance with the proposed PFAS standards a significant issue for landfills.*

ANSWER: That was a typographical error. The groundwater standard is up to 1,000 time lower than the typical leachate concentration.

34. *On page 4, you state that “every Illinois MSW landfill must review and update the GIA every 5 years when it applies for the renewal of its landfill operating permit.”*
- a. *Please comment on whether any Illinois-based NWRA members have performed GIA for their landfills using the proposed PFAS standards or standards based on PFAS background concentrations that support your concerns.*

ANSWER: Since Illinois does not currently have groundwater standards for PFAS constituents, inclusion of the subject constituents in the GIA update (35 IAC 813.304) submitted to the Agency is not necessary. The testimony is expressing the concern that upon adding PFAS to the Illinois Part 620 groundwater quality standards at the levels proposed, it will be required to be addressed in GIA updates for landfills pursuant to Sections 811.317(b) and 813.304(a)(5).

- b. *Also comment on whether NWRA has considered proposing any changes to the landfill GIA regulations to address the concerns regarding PFAS constituents.*

ANSWER: The NWRA has discussed with the Illinois EPA the NWRA concerns regarding the addition of PFAS in landfill GIA regulations. The NWRA has expressed a desire to work with the Illinois EPA on changes to the Part 811 rules specifically related to the GIA requirements but the conversations have been general and the Illinois EPA has not indicated that it would support changes to the GIA regulations. Further, the Illinois EPA has not indicated when or whether it will seek revisions to the Board’s solid waste regulations to address the waste industry’s concerns related to implementation of the PFAS groundwater standard it seeks in this rulemaking.

35. *On page 5, you state that “when POTWs refuse to accept landfill leachate, which is beginning to happen, there is a significant economic impact on the landfill which threatens the landfill’s ability to maintain compliance with the leachate removal requirements of the Part 811 rules...”. Please clarify whether any POTW in Illinois has adopted pretreatment standards under 35 Ill Adm Code 310 that prohibit acceptance of landfill leachate because of PFAS presence. If so, submit any relevant pretreatment program information into the record.*

ANSWER: I am currently unaware of any Illinois POTW that has adopted pretreatment standards for PFAS. However, there are POTW’s in Illinois that have indicated that they will

refuse to accept landfill leachate after January 1, 2023 due to the concerns associated with PFAS regulations.

36. *Also on page 5, you state that the “estimated capital costs to implement leachate pretreatment at a moderate-sized landfill to the extent necessary to reduce PFAS to the levels proposed, should such reductions even be feasible, range from \$2 million to \$7 million. Please explain how you determined the estimated range of capital costs.*

ANSWER: The cost reference was a direct quote from an NWRA letter submitted to the federal Office of Information and Regulatory Affairs. The cost information which was included with the NWRA letter was based on cost study that was recently completed for a facility in Vermont. That information is detailed in Exhibit 4 of my testimony. After further review, the NWRA letter and my initial testimony (\$2 million to \$7 million) was too low. The Vermont study capital cost estimates ranged from \$2.15 million to \$16.45 million and did not include the annual operating expenses. The actual economic impact of the addition of PFAS to the groundwater quality standards will clearly be significant but are not well defined, leaving the regulated community unprepared to understand the economic and operational impacts of the proposed rules.

QUESTIONS FROM THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

- 1) *Does Method 1633 analyze for potable resource groundwater?*

ANSWER: EPA method 1633 which does analyze for PFAS in groundwater is still draft and therefore is still an unaccredited method. In addition, at the concentration levels in the proposed rules there may still be problems even if the method is approved with an MDL of 2 ng/l. Please also see Section IV (page 8) of provided testimony:

“There is no guarantee that once finalized through a multi-lab validated process that the MDL for method 1633 will be at or below the proposed groundwater standard for PFOA. Even if method 1633 is finalized with a MDL of 2 ng/l it will have been established by using controlled samples with rigorously controlled laboratory procedures. The variable nature of field samples and the real world laboratory procedures in a high volume analytical laboratory will likely result in a high number of sample analytical reports that will have a reporting limit that is above the MDL.”

- 2) *Are there methods available for analyzing potable resource groundwater?*

ANSWER: See above answer response to question 1 and USEPA’s response below to modified “drinking water” methods, taken directly from the USEPA website:

What are “modified EPA PFAS methods” (e.g., “Modified Method 537”) and can they be used effectively for analysis of drinking water samples?

EPA is aware of some laboratories that are offering analysis for PFAS by techniques described as “modified” (e.g., “Modified Method 537”). These modified methods are

sometimes offered by laboratories to assess samples of drinking water and other environmental media (e.g., soils, ambient water) and to address PFAS analytes not currently addressed by EPA's methods. EPA is not aware of a standardized description of the modified methods, nor is the Agency aware of studies that have validated the performance of these modified methods across multiple laboratories. Therefore, EPA cannot address the performance of "modified methods" in a general manner. If you are considering using a modified method to analyze a sample, EPA recommends that you evaluate its appropriateness relative to your goals for the data and data quality objectives.

<https://www.epa.gov/pfas/epa-pfas-drinking-water-laboratory-methods>

3) *Do other methods have MRLs that meet the proposed 620 standard for PFOA?*

ANSWER: See responses to questions 1 and 2.

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 23rd day of November 2022, I electronically served the **PRE-FILED ANSWERS OF THOMAS A. HILBERT ON BEHALF OF NATIONAL WASTE & RECYCLING ASSOCIATION** upon the individuals on the attached service list. I further certify that my email address is cmanning@bhslaw.com.

Dated: November 23, 2022

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