

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
SDWA UPDATE, USEPA AMENDMENTS ) R17-12  
(July 1, 2016 through December 31, 2016) ) (Identical-in-Substance  
 ) Rulemaking – Public Water Supply)

**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, copies of which are herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

By: Stephanie Flowers

Stephanie Flowers  
Assistant Counsel  
Division of Legal Counsel

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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SWDA UPDATE, USEPA ) R17-12  
AMENDMENTS (July 1, 2016 through ) (Identical-in-Substance  
December 31, 2016) ) Rulemaking – Public Water Supply)

**COMMENTS OF THE  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

NOW COMES the Illinois Environmental Protection Agency (Illinois EPA), by and through one of its attorneys, Stephanie Flowers, and submits comments regarding the first notice proposal of the Illinois Pollution Control Board (Board) published in the Illinois Register on July 21, 2017. *See*, 41 Ill. Reg. 9171. The Illinois EPA submits the following comments in response to the proposed SWDA updates.

The Illinois EPA recognizes the time and effort expended by the Board in this rulemaking. However, the Illinois EPA does not believe this was an efficient or proper manner of implementing identical in substance amendments. Pursuant to Sec. 7.2 of the Illinois Environmental Protection Act (Act), an identical-in-substance rulemaking is required to adopt regulations to secure federal authorization for a program. Section 17.5 of the Act requires the Board to adopt regulations that are identical in substance to federal regulations and amendments that implement the Safe Drinking Water Act (SWDA), 42 USC 300f et seq., and allows the adoption of all such federal regulations and amendments adopted within a period of time not to exceed six months.

The United States Environmental Protection Agency (USEPA) recently approved 16 alternate testing methods for use in measuring the levels of contaminants in drinking water and determining compliance with primary drinking water standards [Federal Register Vol. 81, No.

138 published July 19, 2016]. Through this identical-in-substance rulemaking, the Board incorporates the 16 newly approved methods into 35 Ill. Adm. Code 611 (Part 611), the Board's primary drinking water standards. But in addition to what should be the straightforward adoption of the federal amendments, the Board broke from its accepted practice and proposed over 1000 other proposed housekeeping amendments to its drinking water regulations at Part 611.

The Illinois EPA also makes the following comments to the rules:

1. On page 115 of the Board's Order, there is a typo in that the Board indicated adding the method title for USGS I-2601-90 but the title does not appear.
2. On page 146-147 of the Board's Order, the Board made the following change to Section 611.213(a): Changed "time and temperatures specified in Standard Methods, 16th Edition, Method 907A, incorporated by reference in Section 611.102, considering the following:" to "time and temperatures specified in the Board note appended to Section 611.531(a)(2)(A); and"; removed subsections (a)(1) and (a)(2).

The Illinois EPA believes this language is substantive in nature and since the change may impact the regulations beyond what is needed to maintain identical-in-substance regulation, this change should be addressed in a regular rulemaking under Section 28 of the Act. The Illinois EPA requests that this change not be made in this rulemaking and that the language be restored to its pre-proposal form.

3. On page 344 of the Board's Order, there is a typo in the word molybdate at Section 611.611(a)(23).

4. On page 398 of the Board's Order, the Board deleted a reference to "initial monitoring" at Section 611.731(a) that the Illinois EPA believes is in error and requests that it be restored.
5. On page 398 of the Board's Order, the Board at Section 611.731(b) uses the word "average" that the Illinois EPA believes is in error as the public water supply is not allowed to average results. Illinois EPA requests that the first sentence of Section 611.731(b) begin "If the monitoring result for a sampling point on a reduced monitoring schedule is above the MCL . . .".
6. On page 399 of the Board's Order, the Board struck Section 611.731(b)(3) which the Illinois EPA believes is in error as this should still be an option for a public water supply who have had results that would allow it. Illinois EPA requests that the language of Section 611.731(b)(3) be restored.
7. On page 420 of the Board's Order, Section 611.801(d)(3)(B) refers to the repealed Sections of 611.521 through 611.527.
8. On page 423 of the Board's Order, the Board deleted the words "pursuant to" at Section 611.802(a)(4)(A) that the Illinois EPA believes is in error and requests that it be restored.
9. On page 438 of the Board's Order, the Board deleted a reference to Section 611.883(d)(3) that the Illinois EPA believes is in error. Illinois EPA requests that the last sentence of Section 611.882(a) read "Each report must contain data collected during, or prior to, the previous calendar year as prescribed in Section 611.883(d)(3)".

10. On page 503 of the Board's Order, there is a typo in the word monitoring at Section 611.971(a).
11. On page 535 of the Board's Order, at Section 611.1013(c) the Board deleted obsolete text relating to past implementation dates with an explanatory statement. However, there is a second round of source water monitoring for Cryptosporidium that Illinois EPA believes should be inserted instead of deleting the text. The Illinois EPA believes this language change is substantive in nature and since the change may impact the regulations beyond what is needed to maintain identical-in-substance regulation, this change should be addressed in a regular rulemaking under Section 28 of the Act. The Illinois EPA requests that this change not be made in this rulemaking and that the language be restored to its pre-proposal form.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

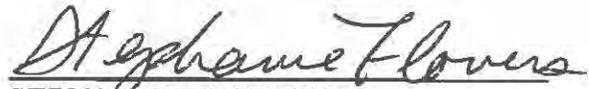
By: Stephanie Flowers

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**CERTIFICATE OF SERVICE**

I, STEPHANIE FLOWERS, an attorney, do certify that I filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the NOTICE OF FILING, and COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY and will cause the same to be served upon the persons listed on the Service List, by electronic service on October 19, 2017.

  
STEPHANIE FLOWERS

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