

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R 2022-018
PROPOSED AMENDMENTS TO)	
GROUNDWATER QUALITY)	
(35 ILL. ADM. CODE 620))	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **NOTICE OF FILING** and **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PRE-FILED QUESTIONS**, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: October 27, 2022

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

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BY: /s/ Nicholas Kondelis
Nicholas Kondelis

THIS FILING IS SUBMITTED ELECTRONICALLY

SERVICE LIST

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PROPOSED AMENDMENTS TO)
GROUNDWATER QUALITY)
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PRE-FILED QUESTIONS

NOW COMES the Illinois Environmental Protection Agency (Illinois EPA or Agency), by and through one of its attorneys, and submits pre-filed questions for the following witnesses:

- I. Dynergy Midwest Generation, et al.
 - Melinda Hahn
 - Lisa Yost
- II. PFAS Regulatory Coalition
 - Ned Beecher
- III. 3M Company
 - Robyn Prueitt
- IV. The American Chemistry Council
 - Stephen Risotto
- V. National Waste & Recycling Association
 - Thomas Hilbert
- VI. International Molybdenum Association
 - Sandra Carey

Illinois EPA requests that the Hearing Officer allow follow-up questioning to be posed based on the answers provided.

I. DYNERGY MIDWEST GENERATION, et. al.

Questions for Melinda Hahn

- 1) Does Part 620 exempt naturally occurring concentrations of a contaminant from compliance with the prevent response and the numerical standards?
- 2) Does Part 620 set soil quality standards or soil remedial objectives?
- 3) If a person is buying property, should the buyer be aware of environmental hazards whether natural or anthropogenic?
- 4) Please provide a citation in Part 620 that requires property owners to take legal action if their groundwater is contaminated by someone else.
- 5) Please provide a citation in Part 620 that requires property owners to:
 - a) install monitoring wells?
 - b) collect groundwater samples?
 - c) report the results?
- 6) Does Section 8 of the Illinois Groundwater Protection Act require the Illinois EPA, to adopt groundwater standards for contaminants that are found in groundwaters of the State?
- 7) Does Section 8 of the Illinois Groundwater Protection Act require that the groundwater standards include contaminants that cause or are suspected of causing cancer, birth defects and any others that adversely affect human health?
- 8) Does Section 8 of the Illinois Groundwater Protection Act make any statements regarding limiting groundwater standards only to contaminants that cause human health effects?
- 9) When assessing risk to human health and the environment is it appropriate to use total metals analysis?
- 10) Please provide a citation in Part 620 that requires the use of total metals analysis for compliance.
- 11) Can monitoring wells be constructed to yield water with a turbidity low enough that matrix interference is not an issue?

- 12) Can a sampler or a laboratory allow samples to settle then decant non-turbid water from the container for analysis?
- 13) Is low flow sampling a common sampling technique?
- 14) Does low flow sampling reduce the turbidity of collected groundwater samples?
- 15) If a groundwater sample has a turbidity of more than 1 NTUs, can the sample be digested for analysis?
- 16) Are the acceptance criteria for a digested and non-digested sample the same?
- 17) Do laboratory methods address common sources of interference and how to address that interference for sample analysis?
- 18) Is a higher groundwater water quality standard justified by the fact that laboratory methods may require a heavily contaminated sample to have a reporting limit above the health or environmentally based standard, when uncontaminated samples can achieve the lower health or environmentally based standard, reporting limit?
- 19) Was the purpose of the USGS data to comply with health or environmentally protective values?
- 20) Were the reporting limits for 84% and 92% of Cobalt and Vanadium, respectively, actually set at 0.005 mg/L or were analytical results simply below that concentration?
- 21) Does the fact that a certain percentage of analytical results were below a given reporting limit (e.g., 0.005 mg/L) mean that lower reporting limits can't be achieved?
- 22) Do you agree the proposed updated Class I potable resource standards for cobalt and vanadium were calculated using the prescribed methods in Part 620 as proposed?
- 23) Do the updated toxicity data for cobalt and vanadium calculate a potable resource standard protective of humans from adverse effects when ingesting groundwater?
- 24) Is the current cobalt standard of 1.0 mg/L, based on beneficial use for livestock, protective of humans from adverse effects when ingesting groundwater?

- 25) Is the current vanadium potable resource standard considered protective of human health, based on the updated toxicity assessment?
- 26) Where in Part 620 is background discussed or considered a factor when developing and proposing numerical groundwater quality standards?
- 27) Does Part 742 also contain provisions for determining area background in groundwater and excluding a contaminant using area background concentrations?
- 28) Can contamination at background levels cause adverse health effects if ingested in groundwater?
- 29) In Section 1.2 you discuss, "Trace Elements and Radon in Groundwater Across the United States, 1992-2003," by USGS. Can a complete copy of the Report be provided as part of Testimony?
- 30) What analytical method(s) did USGS use when conducting the studies?
- 31) Section 1.3, states, "Further, IEPA appears to be unconcerned regarding the technical feasibility or the potential increased cost of compliance, stating that "the Agency recognizes that not all commercial labs may be able to achieve the appropriate levels of quantitation at this time. Nonetheless, to remain viable, commercial labs should expect to keep up with analytical techniques and new methodologies". In fact, laboratories currently operating in Illinois and laboratories certified by IEPA to analyze samples collected in Illinois may be unable to achieve reporting limits needed to show compliance with the very low proposed standards for cobalt and vanadium in unfiltered groundwater samples.²²" The Footnote ²² states, "Communications with commercial laboratory staff confirm that labs would have difficulty achieving reporting limits below the Class I standards proposed by IEPA for cobalt and vanadium."

Please provide a list of labs contacted regarding this issue and what specific questions Dr. Hahn asked when discussing a lab's capability of achieving reporting limits needed to show compliance with the health-based standards?

- 32) What analytical method was used by the USGS National Water Information System for the samples?

Questions for Lisa Yost

- 1) Is Class I groundwater a potable resource groundwater?
- 2) Should a potable resource water be suitable for non-human use if human health is not as sensitive as other uses?
- 3) Most of your “d” footnotes to Table 1 directly reference federal drinking water standards and/or MCLs. Are the federal drinking water standards (i.e., MCLs) applicable after treatment?
- 4) In your experience, what level of treatment is typical at:
 - a) private potable wells?
 - b) irrigation wells?
 - c) livestock watering wells?
- 5) If surrounding States have similar agricultural economies to Illinois, wouldn't a groundwater standard that protects livestock when consuming forage irrigated with contaminated water be beneficial to their agricultural economies?
- 6) Are there any soils in Illinois that have a pH above 7.0 SU?
- 7) If yes, isn't it appropriate for a Selenium groundwater standard to be protective of those soils even if they have a limited extent?
- 8) Would the same rationale hold true for Molybdenum?
- 9) Is the Fluoride MCL set at 4 mg/L due to increased risk of skeletal fluorosis?
- 10) What are the symptoms of skeletal fluorosis?
- 11) Does Fluoride have a distinctive taste or odor at 4 mg/L?
- 12) Has USEPA established a Fluoride Secondary MCL of 2 mg/L, to protect children from tooth discoloration and pitting?
- 13) Does Fluoride have a distinctive taste or odor at 2 mg/L?

- 14) Is there any requirement in Illinois to sample private wells for Fluoride?
- 15) Is a community water supply required to notify its customers if the drinking water it serves exceeds 2 mg/L of Fluoride?
- 16) If a child were drinking untreated water, for example from a private well, would their dental health be better protected by a groundwater quality standard of 2 mg/L or 4 mg/L?
- 17) If forage was irrigated with groundwater containing a high Molybdenum concentration from an anthropogenic source, could that impact livestock health?
- 18) Please provide copies of the data reviewed suggesting that soils in Illinois are typically acidic.
- 19) What is the selenium irrigation value listed on page 4,832 of the December 7, 2021, initial filing under the column, "For use up to 20 years on fine textured soils of pH 6.0 to 8.5"?
- 20) Are recommended maximum concentrations of trace elements in irrigation water has separate recommendations for water used continuously on all soil and for use up to 20 years on fine textured soils of pH 6.0 to 8.5?
- 21) Did the testimony heard at the March 9, 2021, hearing discuss the basis for the selenium irrigation value being for use up to 20 years on fine textured soils, and not for water used continuously on all soils?
- 22) Does RSL use the same methodology to calculate noncancer tap water screening levels as Part 620?
- 23) Are the methods in Part 620, Appendix A required to be used to calculate a potable resource standard?
- 24) When developing the IRIS toxicity value, did IRIS rely on human or animal studies as the basis for its oral reference dose (RfD)?
- 25) Was the Koval'skiy et al. 1961 study the only study relied upon by IRIS when developing its RfD? If the above is "No", were the additional studies human or animal studies?
- 26) Does U.S. EPA continue to use the IRIS RfD instead of the ATSDR toxicity value when calculating health-based screening levels in RSL?

- 27) When developing the ATSDR toxicity value, did ATSDR rely on human or animal studies as the basis for its dose minimal risk level?
- 28) Were the studies conducted for development of the ATSDR toxicity values chronic or subchronic studies?
- 29) When conducting toxicity assessments, is human or animal data more relevant in assessing risks to human?
- 30) Does ATSDR's toxicity assessment consider the potential for increased toxic effects in humans and animals with mineral deficiencies in the diet, specifically, copper?
- 31) Can increased levels of molybdenum be related to possible copper deficiencies, through increased copper excretion?
- 32) Can copper deficiencies resulting from increased intakes of molybdenum cause adverse effects in sensitive populations?
- 33) Does the RfD developed by IRIS take into account the potential for mineral imbalance, specifically copper deficiencies that may result from increased intake of molybdenum?
- 34) Does U.S. EPA utilize the IRIS toxicity value for development of its screening levels?
- 35) Is the IRIS toxicity value protective for the critical effect of decreased body weight gain utilized by ATSDR in the development of its toxicity value?

II. PFAS REGULATORY COALITION

Questions for Ned Beecher

- 1) Must a remediation site always meet the numerical Groundwater Standards of Part 620 in order to complete a remediation under existing regulatory programs?
- 2) Is treatment of groundwater always necessary to complete a remediation?
- 3) Is a community water supply that exceeds the MCL for a contaminant allowed to continue serving that water to its customers in excess of the MCL?
- 4) If drinking water must be treated to meet the MCL prior to distribution into a community water system, isn't a waste stream of some type created?

- 5) Can you explain in what manner a waste stream created by treating water to achieve an MCL is more easily managed than a waste stream created by treating groundwater to achieve a ground water quality standard?
- 6) If a responsible party is required to remediate groundwater for a specific chemical to a level equal to or below the concentration of an MCL, would that “clean” water still require additional treatment for that specific chemical, at additional cost to a community?
- 7) How is the adoption of ground water quality standards for PFAS chemicals that are different than those of other States, more problematic than the adoption of groundwater quality standards for other chemicals that differ from State to State?
- 8) Part 620 was adopted in 1991, given that 30-year history, can you provide some specific examples of how Illinois’ existing groundwater quality standards have created an unworkable patchwork when the Illinois groundwater quality standards are different than other States’ groundwater quality standards?
- 9) Does Part 620 establish regulatory limits for PFAS chemicals in biosolids?
- 10) Is a Community Water Supply required to provide drinking water that meets the MCL or the Ground Water Quality Standards?
- 11) If a Community Water Supply must meet an MCL, is that the standard that imposes cost directly on the Community Water Supply?
- 12) Based on your testimony, is it your opinion that contaminants should remain unregulated simply because they are commonly used and their presence in the environment may come from multiple sources?
- 13) Does the U.S. EPA consider its 2016 public health advisory standards protective?
- 14) Does Part 620 have specified methods for calculating potable resource groundwater standards?
- 15) Do any of the states or countries listed in Table 1 calculate potable resource groundwater standards using the methods proposed in Part 620?
- 16) What matrix other than potable resource groundwater is covered by Part 620?

- 17) What matrices does Method 1633 analyze for?
- 18) Are there validated methods for analyzing potable resource groundwater?
- 19) What part of Part 620 discusses background levels?
- 20) Do individual Programs have provisions for background levels?
- 21) With your research and knowledge (in the introduction) on biosolids, do you recommend applying biosolids that contain PFAS to farmland without regard to the concentration of PFAS?
 - a) What are safe concentrations in the biosolids that can be applied to farmland?
 - b) Wouldn't groundwater standards help define the safe concentrations in biosolids that can be applied to farmland?
- 22) On page 5, you state, "The patchwork of state regulations is unworkable." Please explain how the groundwater in Illinois and the standards proposed in Illinois are affected by the standards of other states. As proposed, the Illinois groundwater standards apply to the groundwater in Illinois. How is this unworkable?
- 23) On page 11, you state, "It (your testimony) will also focus on the need for improved understanding of PFAS background levels." Is PFAS naturally occurring? Are there any true background concentrations?

III. 3M COMPANY

Questions for Robyn Prueitt

- 1) Have the toxicity assessments for each of the proposed PFAS undergone peer-review and public comment prior to the issuance of the final toxicity values?
- 2) With the exception of the toxicity value developed by Illinois EPA to calculate an MTBE (methyl-tertiary-butyl ether) standard, as no oral reference dose is available within the toxicity hierarchy, can you discuss any constituent in Part 620 other than PFAS, with a toxicity value that is not based on a “third-party evaluation”?
- 3) Please explain how developing potable resource standards using toxicity values developed for drinking water is considered an inappropriate situation.
- 4) For what reasons do you believe the selection of toxicity values from U.S. EPA’s toxicity hierarchy is not appropriate for setting health-based potable resource standards?
- 5) Do you agree RSL standards, which bases its toxicity selection on the U.S. EPA toxicity hierarchy are health-based standards?
- 6) Do you agree that ingestion of groundwater is as appropriate health-based endpoint for the calculation of health-based potable resource standards?
- 7) Are you aware that Illinois EPA uses the toxicity hierarchy in calculating remediation objectives for 35 Ill. Adm. Code 742 (TACO)?
- 8) Are you aware that Illinois EPA introduced the toxicity hierarchy in its Part 620 R2008-018 updates, which was finalized by the Illinois Pollution Control Board in 2012, with its approval of the use of the hierarchy? Do you disagree with the Board’s findings?
- 9) Do you believe the U.S. EPA Office of Water’s 2016 PFOS toxicity evaluation is more scientifically sound than the use of updated toxicity studies for comparison? Please explain your response.
- 10) Does RSL use the 2016 toxicity value when developing its health-based standards for PFAS?
- 11) Did U.S. EPA select the ATDSR MRLs as the noncancer toxicity values for use in developing its RSL health-based screening levels?

- 12) Do you believe it is not appropriate for U.S. EPA to utilize the ATSDR MRL toxicity values when calculating health-based screening levels? Please explain your response.
- 13) Do you disagree with U.S. EPA's RSC assessment using its Decision Tree that data is insufficient to allow for a quantitative characterization of different exposure sources? Please explain your response.
- 14) Are products containing PFOA, PFOS or other PFAS present in homes and businesses in Illinois allow for exposure to PFAS?
- 15) Can these products provide humans, especially young children, a route for exposure to PFAS?
- 16) Is Method 8327 a validated method for analyzing potable resource water? Please explain your response.
- 17) Is analyzing groundwater based on its use as a potable resource appropriate using a method derived for non-potable uses? Please explain your response.
- 18) Are there potable water methods available to analyze to minimum reporting levels at or below the proposed PFAS potable resource standards?
- 19) Are there circumstances when a linear model is appropriate for deriving a cancer toxicity value when carcinogens are not demonstrated to act via a mutagen mode of action?
- 20) Does Section 5/58.2 of the Illinois Environmental Protection Act define a carcinogen, in part, as classified a category 1 or 2A/2B carcinogen by World Health Organization's International Agency for Research on Cancer (IARC) classify PFOA as a "2B" carcinogen?
- 21) Would not defining PFOA as a carcinogen violate the Illinois Environmental Protection Act?

- 22) Did you file your concerns regarding the PFOA toxicity assessment with California EPA during its peer-review and Public Comment sessions?
- a) If yes, please provide a copy of your comments submitted to California EPA and California EPA's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.
- 23) Did you file your concerns regarding the PFBS toxicity assessment with U.S. EPA during its peer-review and Public Comment sessions during development of its Provisional Peer-Reviewed Toxicity Value (PPRTV)?
- a) If yes, please provide a copy of your comments submitted to U.S.EPA and U.S. EPA's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.
- 24) Did you file your concerns regarding the PFHxS, PFNA and PFOS toxicity assessments with CDC's Agency for Toxic Substances and Disease Registry (ATSDR) during its peer-review and Public Comment sessions during development of its Minimal Risk Levels (MRLs) for these chemicals?
- a) If yes, please provide a copy of your comments submitted to ATSDR and ATSDR's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.
- 25) Did you file your concerns regarding the HFPO-DA toxicity assessment with U.S. EPA Office of Water during its peer-review and Public Comment sessions during development of its toxicity value?
- a) If yes, please provide a copy of your comments submitted to U.S.EPA Office of Water and U.S. EPA Office of Water's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.

IV. THE AMERICAN CHEMISTRY COUNCIL

Questions for Stephen Risotto

- 1) Do you disagree with U.S. EPA's RSC assessment using its Decision Tree that data is insufficient to allow for a quantitative characterization of different exposure sources? Please explain.
- 2) Are products containing PFOA, PFOS or other PFAS present in homes and businesses in Illinois that allow for exposure to PFAS?
- 3) Can these products provide humans, especially young children, a route for exposure to PFAS?
- 4) What do you consider the "applicable adult population" for calculating the HTTAC?
- 5) What would the appropriate daily water intake of liters per kilogram body weight per day be for an applicable adult population?
- 6) Is the applicable adult population daily water intake protective of sensitive populations, such as pregnant or lactating females, and young children?
- 7) Section 620.410 – Groundwater Quality Standards, discusses concerns with the PFAS toxicity assessments. Did you file your concerns regarding the PFOA toxicity assessment with California EPA during its peer-review and Public Comment sessions?
 - a) If yes, please provide a copy of your comments submitted to California EPA and California EPA's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.

- 8) Did you file your concerns regarding the PFBS toxicity assessment with U.S. EPA during its peer-review and Public Comment sessions during development of its Provisional Peer-Reviewed Toxicity Value (PPRTV)?
 - a) If yes, please provide a copy of your comments submitted to U.S.EPA and U.S. EPA's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.

- 9) Did you file your concerns regarding the PFHxS, PFNA and PFOS toxicity assessments with CDC's Agency for Toxic Substances and Disease Registry (ATSDR) during its peer-review and Public Comment sessions during development of its Minimal Risk Levels (MRLs) for these chemicals?
 - a) If yes, please provide a copy of your comments submitted to ATSDR and ATSDR's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.

- 10) Did you file your concerns regarding the HFPO-DA toxicity assessment with U.S. EPA Office of Water during its peer-review and Public Comment sessions during development of its toxicity value?
 - a) If yes, please provide a copy of your comments submitted to U.S.EPA Office of Water and U.S. EPA Office of Water's response to your comments.
 - b) If no, please explain why you are bringing up these concerns during Part 620 rulemaking and did not during the toxicity assessment.

- 11) On what Method is the U.S. EPA's MRLs based?

- 12) Does Method 537.1 have MRL of 0.000002 mg/L for each of the proposed PFAS?

- 13) Does Method 537.1 provide the lowest concentration minimum reporting levels in potable water for PFAS?

V. NATIONAL WASTE & RECYCLING ASSOCIATION

Questions for Thomas Hilbert

- 1) Does Method 1633 analyze for potable resource groundwater?
- 2) Are there methods available for analyzing potable resource groundwater?
- 3) Do other methods have MRLs that meet the proposed 620 standard for PFOA?

VI. INTERNATIONAL MOLYBDENUM ASSOCIATION

Questions for Sandra Carey

- 1) Does U.S. EPA utilize the IRIS database toxicity value when calculating health-based screening levels through RSL?
- 2) Are toxicity values for the proposed PFAS constituents available from U.S. EPA's Tier 1 or Tier 2 sources (IRIS and PPRTV)?
- 3) Is an inhalation toxicity value (inhalation reference concentration (RfC)) available from U.S. EPA's Tier 1 or Tier 2 sources (IRIS and PPRTV)?
- 4) Does U.S. EPA consider the IRIS RfD to be an acceptable toxicity value for calculating health-based screening levels?

Respectfully submitted,

Dated: October 27, 2022

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ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

BY: /s/ Nicholas Kondelis
Nicholas Kondelis

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation state the following:

That I have served the attached **NOTICE F FILING** and **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PRE-FILED QUESTIONS** by e-mail upon Don Brown at the e-mail address of don.brown@illinois.gov, upon Stefanie Diers at the email address of Stefanie.Diers@illinois.gov, upon Renee Snow at the e-mail address of Renee.Snow@Illinois.Gov, upon Jorge Mihalopoulos at the e-mail address of Jorge.Mihalopoulos@mwr.org, upon Susan Morkalis at the email address of morkaliss@mwr.org, upon J. Mark Powell at the email address of PowellJ@mwr.org, upon Ellen O' Laughlin at the email address of Ellen O'Laughlin@ilag.gov, upon Joshua More at the email address of josh.more@afslaw.com, upon Bina Joshi at the email address of Bina.Joshi@afslaw.com, upon Sarah Lode at the email address of sarah.lode@afslaw.com, upon Sara Terranova at the email address of sara.terranova@illinois.gov, upon Melissa Brown at the email address of Melissa.Brown@heplerbroom.com, upon Fredric Andres at the email address of fandes@btlaw.com, upon Nessa Coppinger at the email address of ncoppinger@bdlaw.com, upon Daniel Schulson at the email address of dschulson@bdlaw.com, upon Matthew Schneider at the email address of mschneider@bdlaw.com, upon Stephen Risotto at the email address of srisotto@americanchemistry.com, upon Sandra Carey at the email address of sandracarey@imoa.info, upon Aleacia Chinkhota at the email address of aleacia_chinkhota@americanchemistry.com, upon Claire Manning at the email address of cmanning@bhslaw.com, upon Anthony Schuering at the email address of aschuering@bhslaw.com, upon James Morphew at the email address of jmmorphew@sorlinglaw.com, and upon Jason James at the email address of Jason.James@ilag.gov

That my e-mail address is: Nicholas.E.Kondelis@illinois.gov

That the e-mail transmission took place before 4:30 p.m. on the date of October 27, 2022.

/s/ Nicholas Kondelis
October 27, 2022