



November 19, 2025

IN THE MATTER OF:)

SDWA UPDATE, USEPA AMENDMENTS)

(January 1, 2024, through June 30, 2024))

R25-1

(Identical-in-Substance

Rulemaking - Public Water Supply)

SDWA UPDATE, USEPA AMENDMENTS)

(July 1, 2024, through December 31, 2024))

R25-9

R25-9

(Identical-in-Substance

Rulemaking - Public Water Supply)

(Consolidated)

Re: Comments on Federal Drinking Water Regulations and Illinois IIS Rulemaking (R25-1/R25-9)

On October 2, 2025, the Illinois Pollution Control Board issued an order in consolidated docket R25-1/R25-9, proposing amendments to Illinois' drinking water regulations to align with recent federal updates under the National Primary Drinking Water Regulations.

Background

In 2024, the U.S. Environmental Protection Agency (USEPA) issued six actions under the National Primary Drinking Water Regulations (NPDWRs). These actions included:

- Expedited approval of 93 alternative testing methods (ATMs) for analyzing contaminants in drinking water;
- Establishment of new regulations for six per- and polyfluoroalkyl substances (PFAS); and
- Updates to the Lead and Copper Rules.

The Board now proposes amendments to the 35 Ill. Adm. Code 611 of the Illinois rules "identical in substance" (IIS) to comply with the drinking water regulations adopted by USEPA NPDWRs.



The Illinois Pollution Control Board plans to submit the proposed amendments for publication in the *Illinois Register* by December 30, 2025, which will initiate a minimum 45-day public comment period. Following the close of the comment period and consideration of public input, the Board expects to adopt and file the final rules with the Secretary of State in early 2026, consistent with the federal deadline of January 30, 2026.

Solicitation of Comments and Motion for Vacatur

As part of this rulemaking, the Board is soliciting public comments on several aspects of the proposed amendments, including issues related to USEPA's plans to rescind certain 2024 PFAS regulations. Although no repeal has been formally published in the *Federal Register*, USEPA has publicly stated its intent to delay and withdraw the PFAS maximum contaminant level (MCL) standards. The Board argues, however, that this announcement does not present scientific or risk-based justification for the proposed delay or removal of these standards. (See: U.S. Environmental Protection Agency, "EPA Announces It Will Keep Maximum Contaminant Levels for PFOA, PFOS," May 14, 2025, <https://www.epa.gov/newsreleases/epa-announces-it-will-keep-maximum-contaminant-levels-pfoa-pfos>.) Additionally, in its September 11, 2025, motion, EPA asked the D.C. Circuit to partially vacate the 2024 PFAS drinking water rule for PFNA, PFHxS, HFPO-DA (GenX), and the hazard-index mixture including those PFAS and PFBS. EPA said the rule was issued through an improper process because it combined two steps that the Safe Drinking Water Act requires to occur separately: first issuing a final regulatory determination after public comment, and only afterward proposing and finalizing MCLs and MCLGs. By finalizing both steps at once, EPA now acknowledges it denied the public and water systems a proper chance to comment. EPA also noted it has not proposed a new rule yet because it is waiting for the court's decision to avoid duplicating or conflicting with the outcome.¹

Inconsistency with Illinois' Identical in Substance Process

The purpose of Illinois' Identical-in-Substance (IIS) rulemaking process is to ensure that state environmental regulations remain consistent with corresponding federal requirements under the Clean Water Act, Safe Drinking Water Act, and related federal statutes. The IIS mechanism is designed to promote uniformity and avoid unnecessary duplication or divergence between state and federal standards. However, the current IIS proposal raises concerns about its continued alignment with federal law, particularly regarding the 2024 PFAS drinking water regulations.

¹ EPA, *Respondents' Motion for Partial Vacatur, American Water Works Association et al. v. EPA*, No. 24-1188 (D.C. Cir. filed Sept. 11, 2025).



The U.S. Environmental Protection Agency (USEPA) has publicly announced plans to rescind or substantially revise portions of those PFAS Maximum Contaminant Level (MCL) standards, though no repeal has yet been formally published in the *Federal Register*. The Illinois Pollution Control Board's rule cannot remain "identical in substance" to a federal rule once USEPA has formally initiated withdrawal or delay proceedings, even if the justification for withdrawal is procedural or policy-based rather than scientific. The IIS framework under Illinois law requires substantive parity with the federal regulation — not an independent state-level policy defense. This pending federal action creates significant regulatory uncertainty that undermines the very purpose of Illinois's IIS framework — which is to mirror, not anticipate or outpace, federal requirements.

Proceeding with state adoption of these PFAS provisions while their federal basis is subject to withdrawal, revision, or judicial vacatur would result in Illinois regulations that are no longer "identical in substance." Because Section 102.610 of the Illinois Administrative Code does not provide a mechanism to pause or rescind adoption in the event of a federal reversal, the state could be left enforcing standards that are inconsistent with, or even contrary to, federal law. This would not only defeat the intent of the IIS process but could also impose unnecessary compliance burdens on Illinois entities without any corresponding federal mandate.

Therefore, IERG urges the Board to acknowledge this procedural and substantive inconsistency and consider deferring or conditioning adoption of the PFAS-related provisions until USEPA's regulatory position is finalized. Alternatively, the Board should clarify how it intends to preserve the integrity of the IIS process should the federal rule be withdrawn or vacated after state adoption. In addition, IERG requests that the Board open a subdocket to further discuss how to proceed in light of the uncertainty surrounding the federal PFAS rule and its potential impact on Illinois's regulatory framework.