

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN MATTER OF:	)	
	)	
SDWA UPDATE, USEPA AMENDMENTS	)	R25-1
(January 1, 2024, through June 30, 2024	)	(Identical-in-Substance
	)	Rulemaking – Public Water Supply)
	)	
SDWA UPDATE, USEPA AMENDMENTS	)	R25-9
(July 1, 2024, through December 31, 2024)	)	(Identical-in-Substance
	)	Rulemaking – Public Water Supply)
	)	(Consolidated)

**NOTICE OF FILING**

**To: Persons on Attached Service List**

PLEASE TAKE NOTICE THAT on the January 8, 2026, I caused to be electronically filed with the Clerk of the Illinois Pollution Control Board, via the “COOL” System, in the above referenced case, the Illinois Attorney General’s Comments and Appearances of Jason James and Annmarie Hanohano, copies of which are hereto attached and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL

Attorney General of the State of Illinois

By: /s/ Jason E. James

Assistant Attorney General

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**CERTIFICATE OF SERVICE**

I, Jason James, an Assistant Attorney General, caused to be served on this 8th day of January, 2026, the foregoing Notice of Filing of and Illinois Attorney General's Comments and Appearances of Jason James and Annmarie Hanohano on the parties named on the attached Service List, by email or electronic filing, as indicated on the attached Service List.

By: /s/ Jason E. James  
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**APPEARANCE**

I, Jason E. James, hereby file my appearance on behalf of the Illinois Attorney General’s Office, for the People of the State of Illinois, as an interested party.

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL, Attorney General  
of the State of Illinois

/s/ Jason E. James

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**APPEARANCE**

I, Ann Marie Hanohano, hereby file my appearance on behalf of the Illinois Attorney General’s Office, for the People of the State of Illinois, as an interested party.

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL, Attorney General  
of the State of Illinois

By: /s/ Ann Marie Hanohano  
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**Illinois Attorney General’s Office’s Comments**

The Illinois Attorney General’s Office, on behalf of the People of the State of Illinois (the “People”) submits these comments regarding the Illinois Pollution Control Board’s (the “Board”) identical-in-substance (“IIS”) rulemaking addressing USEPA regulations on per- and polyfluoroalkyl substances (“PFAS”) in drinking water.

Because PFAS pose serious and well-documented risks to human health and the environment, the People urge the Board to protect Illinois’ drinking water resources and promptly adopt regulations that are identical in substance to the existing USEPA regulatory standards for six types of PFAS. USEPA’s announced plans to reevaluate these standards should not change the Board’s course of action. USEPA has not revised its drinking water regulations, and, in fact, no public rulemaking process has even begun.

As further explained below, the Board must follow its mandate under the Illinois Environmental Protection Act (“Act”) and adopt provisions that are identical in substance to USEPA’s existing regulations on PFAS in drinking water.

## I. PFAS in drinking water threaten human health and the environment in Illinois.

The presence of PFAS in drinking water endangers Illinois' residents' access to a healthful environment. PFAS, introduced in the 1940s and still present in countless consumer products today, are widely referred to as “forever chemicals” due to their stability and persistence. PFAS can also be highly mobile, spreading quickly in the environment. They have been used in a wide range of products, such as cookware, infant car seats, and clothing and, as a result, most Americans possess a detectable amount of PFAS in their blood.<sup>1</sup>

A growing body of scientific evidence has shown that PFAS are highly toxic to humans and animals and can cause significant adverse health effects even at extremely low doses.<sup>2</sup> Studies have linked PFAS to ailments ranging from liver problems<sup>3</sup> and the immune system<sup>4</sup> to diabetes<sup>5</sup> and fertility.<sup>6</sup>

Because of the growing understanding of this threat, the People have recently urged the federal government to take action to limit PFAS exposures through regulations grounded in the

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<sup>1</sup> Agency for Toxic Substances and Disease Registry, *PFAS in the U.S. Population*, [https://www.atsdr.cdc.gov/pfas/data-research/facts-stats/?CDC\\_AAref\\_Val=https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html](https://www.atsdr.cdc.gov/pfas/data-research/facts-stats/?CDC_AAref_Val=https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html).

<sup>2</sup> See Pelch K.E., *et al.* 2021. PFAS-Tox Database, <https://pfastoxdatabase.org/>.

<sup>3</sup> Elizabeth Costello *et al.*, *Exposure to per- and Polyfluoroalkyl Substances and Markers of Liver Injury: A Systematic Review and Meta-Analysis*, *Environ. Health Perspectives*, <https://pmc.ncbi.nlm.nih.gov/articles/PMC9044977/>.

<sup>4</sup> Haley Von Holst, *et al.*, *Perfluoroalkyl substances exposure and immunity, allergic response, infection, and asthma in children: review of epidemiologic studies*, *Heliyon*, <https://doi.org/10.1016/j.heliyon.2021.e08160>; U.S. Department of Health and Human Services, National Toxicology Program, *NTP Monograph: Immunotoxicity Associated with Exposure to Perfluorooctanoic acid and Perfluorooctane Sulfonate*, September 2016, [https://ntp.niehs.nih.gov/sites/default/files/ntp/ohat/pfoa\\_pfos/pfoa\\_pfosmonograph\\_508.pdf](https://ntp.niehs.nih.gov/sites/default/files/ntp/ohat/pfoa_pfos/pfoa_pfosmonograph_508.pdf).

<sup>5</sup> Gui, S.Y., *et al.* *Association between per- and polyfluoroalkyl substances exposure and risk of diabetes: a systematic review and meta-analysis.*, *J. Expo Sci Environ Epidemiol*, <https://doi.org/10.1038/s41370-022-00464-3>.

<sup>6</sup> Mount Sinai, *Exposure to Chemicals Found in Everyday Products Is Linked to Significantly Reduced Fertility* (2023) <https://pubmed.ncbi.nlm.nih.gov/36801327/>; Wei Wang, *The effects of perfluoroalkyl and polyfluoroalkyl substances on female fertility: A systematic review and meta-analysis*, *Environmental Research*, <https://doi.org/10.1016/j.envres.2022.114718>.

best available science.<sup>7</sup> This advocacy reflects the overwhelming evidence that protective standards must account for PFAS' persistence and cumulative exposure.

## II. In an IIS rulemaking, the Board may only adopt existing USEPA regulations.

The Act directs the Board to adopt regulations that are “identical in substance” to USEPA regulations, *i.e.*, “State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois.” 415 ILCS 5/7.2(a).

The Board has limited discretion on the regulatory text it may adopt in an IIS rulemaking. The Act provides that “the Board shall adopt the verbatim text of such USEPA regulations as are necessary and appropriate for the authorization of [an environmental regulatory program]” with limited alterations. *Id.* In light of this narrow discretion, the Act directs the Board to promptly complete its IIS rulemaking “proceedings within one year after the adoption of the corresponding federal rule.” *Id.* at 7.2(b). The Board still must, however, take and consider public comments in IIS rulemakings. *Id.* at 7.2(a).

In certain instances, the Board may take additional time beyond one year to complete an IIS rulemaking. However, the Board must find “that the one-year period is insufficient for

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<sup>7</sup> See, e.g., Multistate Comments dated April 13, 2022 regarding EPA’s Fiscal Year 2022 Spend Plan for PFAS, [https://www.michigan.gov/ag/-/media/Project/Websites/AG/releases/2022/April/State\\_Comments\\_on\\_EPAs\\_PFAS\\_Spend\\_Plan\\_FINAL\\_751106\\_7.pdf?rev=761235fc045d4b9c995b1a4427a2ad3c&hash=DB08B30565068BCA058CB3E5C331694C](https://www.michigan.gov/ag/-/media/Project/Websites/AG/releases/2022/April/State_Comments_on_EPAs_PFAS_Spend_Plan_FINAL_751106_7.pdf?rev=761235fc045d4b9c995b1a4427a2ad3c&hash=DB08B30565068BCA058CB3E5C331694C); Multistate Comments dated September 27, 2021 regarding EPA’s Proposed TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances, 86 Fed. Reg. 33926 (June 28, 2021), <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0549-0086>; Multistate Comments dated September 17, 2021 regarding EPA’s Drinking Water Contaminant Candidate List 5 Draft, 86 Fed. Reg. 37948 (July 19, 2021), <https://www.regulations.gov/comment/EPA-HQ-OW-2018-0594-0076>; Multistate Comments dated May 10, 2021 regarding EPA’s proposal to expand monitoring for PFAS under the UCMR5 (May 10, 2021), [https://coag.gov/app/uploads/2021/05/510.21\\_PFAS\\_Comments.pdf](https://coag.gov/app/uploads/2021/05/510.21_PFAS_Comments.pdf); Multistate AG comment letter on Preliminary Regulatory Determination and Proposed Rule; PFAS National Primary Drinking Water Regulation Rulemaking, 88 Fed. Reg. 18638 (Mar. 29, 2023), <https://www.regulations.gov/comment/EPA-HQ-OW-2022-0114-1687>.

completion of the rulemaking” and “shall specify a date certain by which the Board anticipates completion of the rulemaking.” *Id.* Or if there is a “need to delay adoption” due to an event beyond the Board’s control, the Board may provide a time estimate rather than a date certain. *Id.*

**III. USEPA has not altered the verbatim text of its PFAS drinking water regulations, and USEPA’s announcement does not represent an irrevocable decision to do so.**

In April 2024, USEPA finalized enforceable federal drinking water standards for six types of PFAS under the Safe Drinking Water Act (“SDWA”): PFOA, PFOS, PFHxS, PFNH, HFPO-DA (GenX Chemicals), and a hazard index for mixtures.<sup>8</sup> Earlier this year, USEPA announced the intention to rescind these regulations with respect to PFHxS, PFNA, HFPO-DA (GenX), and the hazard index mixture of these three PFAS plus PFBS.<sup>9</sup> The Board astutely noted that “the announcement does not provide evidence of reduced risk to human health or scientifically based reasoning for the delay and removal of the 2024 PFAS regulations. R25-1, R25-9 (consolidated), October 2, 2025 Board Order at 15. USEPA’s latest regulatory agenda states that the agency would propose its rollback rule in September 2025 and finalize it in February 2026.<sup>10</sup> Clearly, USEPA has not adhered to this schedule.

To lawfully complete this announced regulatory change, USEPA must first publicly propose revised regulatory text. USEPA must then take public comment, respond to those comments, and explain the reasons for its decision based on the administrative record it has developed. *See* 5 U.S.C. § 553(b)–(c). Only then may USEPA legally adopt a final rule altering the current text of its regulations. In other words, USEPA’s announcement marks the beginning

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<sup>8</sup> 89 Fed. Reg. 32,532 (Apr. 26, 2024); 89 Fed. Reg. 49,101 (June 11, 2024).

<sup>9</sup> USEPA, “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>.

<sup>10</sup> USEPA, *Unified Agenda of Regulatory and Deregulatory Actions*, RIN 2040-AG53, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2040-AG53>.

of a public rulemaking process during which the Agency must develop evidence supporting its choice, thoroughly engage with the evidence presented by public commenters, and make a logical connection between evidence in the rulemaking record and the final regulation.

USEPA's announcement cannot represent an irrevocable decision to change the regulations, because USEPA may not prejudge the outcome of its rulemaking. Where an agency decisionmaker demonstrates an "unalterably closed mind on matters critical to the disposition of the proceeding," a regulation may be vacated. *Ass'n of Nat'l Advertisers v. FTC*, 627 F.2d 1151, 1170 (D.C. Cir. 1979). Federal agencies may express an opinion before issuing a proposal, but where an agency "has reached an irrevocable decision on whether a rule should be issued prior to . . . final action", then allowing "the public to submit comments to an agency that has already made its decision is no different from prohibiting comments altogether." *Id.* at 1170; *Nehemiah Corp. v. Jackson*, 546 F.Supp. 2d 830, 847 (E.D. Cal. 2008). Indeed, "[t]here is no doubt that the purpose of [rulemaking proceedings] would be frustrated if [agency officials] had reached an irrevocable decision on whether a rule should be issued prior to . . . final action." *Ass'n of Nat'l Advertisers*, 627 F.2d at 1170.

USEPA's obligation to consider and respond to public comments is not simply ministerial. Where an agency departs from prior policy, it must provide "good reasons" for doing so. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Furthermore, an agency's action is arbitrary and capricious if it fails to consider important aspects of the problem, relies on impermissible factors, or contradicts the evidence before the agency, including evidence presented in public comment. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

Because USEPA's announcement marks the beginning—not the end—of the analytical process and public engagement that the agency is required to undertake, it has no bearing on the Board's current rulemaking to adopt the verbatim language of existing USEPA regulations. Moreover, as the Board noted nothing in the USEPA announcement provides a medical or science-based rationale demonstrating that PFHxS, PFNA, HFPO-DA (GenX), and the hazard index mixture of these three PFAS plus PFBS are safe for human consumption in drinking water at levels above the April 2024 proposed standards. For this reason alone, the Board should adopt these standards in this IIS rulemaking

**IV. The Board has no legal obligation—or authority— to consider future regulatory changes in adopting IIS regulations.**

The Act's provisions on IIS rulemakings are clear: the Board must adopt regulations which “require the same actions with respect to protection of the environment” within “one year after the adoption of the corresponding federal rule.” 415 ILCS 5/7.2(a), 7.2(b). The Act's limited exception for indefinitely extending this one-year period does not apply—there is no “need to delay adoption” for any reason. *Id.* at 7.2(b).

USEPA's announcement that it intends to consider revising its standards and potentially, at some unknown time, adopt different regulatory text has no bearing on the present Board rulemaking. Certainly, no statutory provision requires the Board to consider whether USEPA could change its regulations at some point in the future. Nor is there any need for the Board to delay adoption; it is fully within its statutory authority to adopt these existing USEPA regulations. The People urge the Board to promptly complete this rulemaking, which is essential to address the serious and ongoing threat to public health and the environment from PFAS in drinking water.

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL, Attorney General  
of the State of Illinois

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