

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 ) R18-26  
AMENDMENTS TO 35 ILL ADM. CODE ) (Rulemaking- Public Water Supply)  
SUBTITLE F: PUBLIC WATER )  
SUPPLY )

**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S COMMENTS ON THE BOARD'S FIRST NOTICE OPINION, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/Stefanie N. Diers  
Stefanie N. Diers  
Deputy General Counsel

Date: July 8, 2022

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**ILLINOIS EPA’S FIRST NOTICE COMMENTS**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, ("Illinois EPA" or "Agency") by and through its counsel, submits the following First Notice comments in the above captioned rulemaking.

**I. Introduction**

On January 10, 2018, the Agency proposed revision to Subtitle F. The revisions proposed were clean-up amendments to remove obsolete, repetitive, confusing or otherwise unnecessary language only. The Board also stated in its Order of June 17, 2021, they too were reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. In its June 17, 2021 Order, the Board proposed additional amendments to Subtitle F and asked several questions concerning the Agency’s proposal. The Agency filed responses to the Board’s questions on November 16, 2021. The Agency filed its Post Hearing Comments on January 8, 2022. The Board then issued its First Notice Opinion on May 12, 2022. The proposed rule was published in the Illinois Register on May 27, 2022. The Agency now provides the following comments with respect to the Board’s First Notice Opinion and Order.

**Section 601.101(b)(3)**

The United States Environmental Protection Agency has established Secondary MCL's (SMCL's) that are not considered a threat to human health at the SMCL level. Because these levels are not health-based, public water systems are not required to test for SCML's and only do so on a voluntary basis. The primary reason SCML's exist is because the USEPA believes if these constituents are present in drinking water at levels above these standards, it may affect the aesthetic quality of the water. This can include visual appearance such as cloudy or colored water, and potentially offensive odors and smells. However, it is important to note water which only exceeds SCML's is safe to drink. The reason SCML's are set is to give public water systems guidance on at what levels these chemicals will be noticeable to users, who may then find the water aesthetically unpleasing.

Water supplies are having to deal with new requirements, health advisories, and standards for health-based constituents such as lead, PFAS, and algal toxins. Requiring Public Water Supply compliance with SCML's will have a significant financial impact and move potential resources from treating health-based risks to controlling the aesthetic issues associated with SCML's.

SCML's can have the following issues: aesthetic effects — undesirable tastes or odors, cosmetic effects — effects which do not damage the body but are still undesirable, and technical effects — the potential to reduce the effectiveness of treatment for other contaminants.

Aesthetic effects such as odors can be noticeable even when present in extremely small amounts — and below the SCML. It is usually very expensive and often impossible to identify, much less remove, odor-producing substances. The SCML for fluoride is a guideline for the upper boundary of the effectiveness of fluoride in preventing cavities in teeth. The level of the SMCL was set based upon a balancing of the beneficial effects of protection from tooth decay and the undesirable effects of excessive exposures leading to cosmetic discoloration. Levels of iron

above the SCML may have objectional taste and appearance and may reduce the effectiveness of disinfection by creating a chlorine demand. However, minor modifications to the chlorination process can adjust for this demand.

A review of Illinois EPA data indicates 298 water supplies exceed the SCML for iron. Some water supplies have more than one water plant or source, each at different locations, all of which could require treatment plants at multiple locations. Installation of required treatment to lower iron levels below the SCML of 0.3 mg/L will result in the following:

- Expenses for engineering consulting fees to design required treatment.
- Expenses for the installation of plant equipment. For example, a 460-gpm iron removal treatment plant permitted in 2021 included a cost estimate of \$2.7 million.
- Expenses for water plant waste treatment systems.
- Additional maintenance and utility costs for plant operation.

The installation of equipment to remove iron will result in a change in water supply classification to Class B. The cost of training employees to reach this Operator classification, the increased cost of continuing education hours, and the increase in salaries for these Operators versus water supplies without iron removal treatment will be a financial burden for the water supplies.

Iron removal equipment requires backwashing. The wastewater from this process will require treatment. Either the existing wastewater system will have to be updated to accommodate this waste, or onsite treatment at water plants will have to be installed. If onsite treatment is installed, a NPDES Permit will have to be obtained, and required waste discharge monitoring done. All of this will be a financial burden on affected water supplies.

The pumping associated with water plant treatment to lower the iron level below the SCML will result in more treated water going to waste for filter cleaning, additional electrical costs for pumping, and increased maintenance cost for equipment.

Therefore, since this rulemaking is limited to non-substantive, clarifying changes, the adoption of required compliance with SCML's is beyond the scope of this review and changes to Part 601(b)(3) should not be pursued by the Board at this time.

### **Part 615**

The Agency believe the definition for "MDL" needs to be changed as noted below. In Section 620.207, Board Order P. 9 the Board says that changing all the references to PQL to the more updated terms LLOQ and LCMRL are substantive changes. As for the definition of for what a "detection" is, the Agency attends to address that in a general rule at a later date. Therefore, the Agency proposes the following for "MDL":

**"Method Detection Limit" or "MDL"**, means the minimum measured concentration of a substance that can be ~~measured as reported~~ with 99 percent confidence that the true value is greater than zero, pursuant to 40 CFR 136, appendix B, which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the ~~true value is greater than zero~~ measured concentration is distinguishable from the method blank results, pursuant to 40 CFR 136, appendix B (2017) ~~56 Fed. Reg. 3526-3597;~~ incorporated by reference at Section 615.103.

### **Part 615.103**

The text below appears to be the correct citation for the "MDL" listed above, but the definition should be changed based on the Agency's comments stated above.

### **Part 616.205 (e)**

Section 616.205(e)(1) references the "MAR" calculated in Section 616.207. The Agency agrees with the Board that changing the acceptable methods for calculating MARs under Section 616.207 is a substantive change and not appropriate for this non-substantive rule making. The Agency believes a modification to Section 616.205(e) directly referencing Section 616.207 would best be addressed in a general rule making. Therefore, the Agency withdraws its

suggestion for any further modification to Section 616.205(e), beyond those already provided by the Board, at this time.

Finally, the Agency agrees with all the other changes proposed in the Board's First Notice Opinion and Order, except the Agency still contends that "but is not limited to" should remain in the Sections outlined in the Agency's previous comments to the Board. These are substantive changes to the regulatory language and the language should remain as currently written in the regulations.

WHEREFORE, the Agency respectfully requests the Board adopted the changes as proposed by the Illinois EPA.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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**CERTIFICATE OF SERVICE**

Stefanie N. Diers, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING and ILLINOIS EPA'S COMMENTS ON THE BOARD'S FIRST NOTICE OPINION AND ORDER upon persons listed on the Service List, by electronic service and sent to the email addresses designated below on July 8, 2022

/s/Stefanie N. Diers

Stefanie N. Diers

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