**Section 611.111 Relief Equivalent to SDWA Section 1415(a) Variances**

This Section describes how the Board grants relief equivalent to that available from USEPA under section 1415(a)(1)(A) and (a)(1)(B) of SDWA (42 U.S.C. 300g-4(a)(1)(A) and (a)(1)(B)). Every variance under Sections 35 through 38 of the Act must require that the supplier comply within five years. SDWA section 1415 variances need not do so. A supplier may seek State regulatory relief equivalent to a SDWA section 1415 variance using one of three procedural mechanisms: a variance under Sections 35 through 38 of the Act and Subpart B of 35 Ill. Adm. Code 104; a site-specific rule under Sections 27 and 28 of the Act and 35 Ill. Adm. Code 102; or an adjusted standard under Section 28.1 of the Act and Subpart D of 35 Ill. Adm. Code 104.

a) The Board will grant a variance, a site-specific rule, or an adjusted standard from an MCL or a treatment technique under this Section.

1) The supplier must file a petition under the applicable of 35 Ill. Adm. Code 102 or 104.

2) If a State requirement does not have a federal counterpart, the Board needs not follow this Section when granting relief from the State requirements.

b) Relief from an MCL

1) To justify relief from an MCL under this Section, the supplier must demonstrate specific facts:

A) Due to the characteristics of the raw water sources and alternative sources that are reasonably available to the system, the supplier cannot meet the MCL;

B) The supplier installs or will install BAT (as identified in Subpart F), treatment technique, or other means that the Agency finds available. BAT may vary depending on specific considerations:

i) The number of persons the system serves;

ii) Physical conditions related to engineering feasibility; and

iii) Compliance costs; and

C) The variance will not result in an unreasonable risk to human health.

2) In any order granting relief under this subsection (b), the Board will prescribe schedules:

A) A schedule for complying with each MCL from which the Board granted relief, including increments of progress; and

B) A schedule for the supplier implementing each additional control measure for each MCL from which the Board granted relief during the period ending when the order requires that the supplier comply with the MCL.

3) Schedule of Compliance for Relief from an MCL

A) A schedule of compliance will require the supplier to comply as expeditiously as practicable with each MCL from which the Board granted relief.

B) If the Board prescribes a schedule requiring the supplier to comply with an MCL that is more than five years after when the Board grants the relief, the Board will take certain actions:

i) The Board will document its rationale for the extended compliance schedule;

ii) The Board will discuss its rationale for the extended compliance schedule in the required public notice and opportunity for public hearing; and

iii) The Board will provide the shortest practicable schedule feasible for the supplier to comply with the MCL under the circumstances.

c) Relief from a Treatment Technique Requirement

1) As part of the justification for relief from a treatment technique requirement under this Section, the supplier must demonstrate that the treatment technique is not necessary to protect the health of the persons served due to the nature of the raw water source.

2) The Board may prescribe monitoring and other requirements as a condition for relief from a treatment technique requirement.

d) The Board will hold at least one public hearing. In addition, the Board will accept comments under 35 Ill. Adm. Code 102 or 104.

e) The Board will not grant relief from certain standards:

1) From the MCLs for total coliforms and E. coli. The Board can no longer grant relief from the total coliform MCL.

BOARD NOTE: As provided in Section 611.131(c)(1) and 40 CFR 142.304(a), a small system variance is not available for rules that address microbial contaminants, which include Subparts B, R, S, X, Z, and AA.

2) From any treatment technique requirement in Subpart B.

3) From the RDC requirements in Sections 611.241(c) and 611.242(b).

f) The Agency must promptly send USEPA the Board's opinion and order granting relief under this Section. The Board may reconsider and modify its order granting relief and any conditions if USEPA notifies the Board of a finding under section 1415 of the SDWA (42 U.S.C. 300g-4).

g) In addition to this Section, Section 611.130 or 611.131 may apply to relief the Board grants under this Section.

BOARD NOTE: This Section derives from 40 CFR 141.4, from section 1415(a)(1)(A) and (a)(1)(B) of the SDWA (42 U.S.C. 300g-4(a)(1)(A) and (a)(1)(B)) and from the Guidance Manual for Filtration and Disinfection (91), incorporated by reference in Section 611.102. USEPA has a procedure at 40 CFR 142.23 to review and potentially modify or nullify state determinations granting relief from NPDWRs if USEPA finds that the state abuses its discretion or fails to prescribe required schedules for compliance in a substantial number of instances.

(Source: Amended at 47 Ill. Reg. 16486, effective November 2, 2023)