

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) R 22-17
AMENDMENTS TO 35 ILL. ADM. CODE)
PART 203: MAJOR STATIONARY) (Rulemaking - Air)
SOURCES CONSTRUCTION AND)
MODIFICATION, 35 ILL. ADM. CODE)
PART 204: PREVENTION OF)
SIGNIFICANT DETERIORATION, AND)
PART 232: TOXIC AIR CONTAMINANTS)

NOTICE OF FILING

To: Persons on Service List
(Via Electronic Filing)

PLEASE TAKEN NOTICE that I have filed today with Clerk of the Illinois Pollution Control Board by electronic filing the following The Illinois Attorney General Office's Status Update in Support of Its Motion to Stay, a true and correct copy of which is attached hereto and hereby served upon you.

KWAME RAOUL
Attorney General
State of Illinois

/s/ Jason E. James
Jason E. James, AAG

Dated: July 6, 2022

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CERTIFICATE OF SERVICE

I, Jason E. James, an Assistant Attorney General, do certify that on this 6th day of July, 2022, I caused to be served the foregoing Illinois Attorney General Office's Status Update in Support of Its Motion to Stay and Notice of Filing on the parties named on the attached Service List, by email or electronic filing, as indicated on the attached Service List.

/s/ Jason E. James

Jason E. James

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The Illinois Attorney General's Office's Status Update in Support of its Motion to Stay

The Illinois Attorney General's Office, on behalf of the People of the State of Illinois ("People"), submits this status update to the Illinois Pollution Control Board (the "Board") to timely supplement the record in this proceeding and in further support of its pending Motion to Stay filed on May 6, 2022. As described below, the U.S. Environmental Protection Agency ("USEPA") plans to issue a Notice of Proposed Rulemaking concerning the Project Emissions Accounting Rule by February 2023. USEPA's plans add support to the People's Motion to Stay.

These proposed new state air regulations currently before the Board are directly related to the U.S. Environmental Protection Agency's ("USEPA") "Project Emissions Accounting Rule", adopted at 85 Fed. Reg. 74,890 (Nov. 24, 2020). Because the Project Emissions Accounting Rule is currently being evaluated for revision in a recently initiated USEPA rulemaking, the People's Motion to Stay argued that the Board stay this proceeding until Feb. 28, 2023, by which time more information about USEPA's new rulemaking would be available.

A short time ago, USEPA published an update on its recently initiated Project Emissions Accounting rulemaking in its latest Semiannual Regulatory Agenda. In accordance with Executive Order 12,866, regulatory agencies must submit upcoming significant regulatory actions for review by the Office of Information and Regulatory Affairs ("OIRA") and the Office of Management and

Budget (“OMB”). 58 Fed. Reg. 51,735 (Oct. 4, 1993), *available at* <https://www.archives.gov/files/federal-register/executive-orders/pdf/12866.pdf>.

In the Semiannual Regulatory Agenda, USEPA stated that environmental advocates’ petition for reconsideration of the Project Emissions Accounting Rule “identified potential concerns that warranted further consideration by [USEPA].” *USEPA Semiannual Regulatory Agenda*, Spring 2022, *available at* <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202204&RIN=2060-AV62>. USEPA also reiterated that the Agency is initiating the rulemaking at its own discretion and will consider revisions to address issues raised by the environmental advocates’ petition. *Id.*

USEPA anticipates publishing a Notice of Proposed Rulemaking in February 2023. *Id.* A Notice of Proposed Rulemaking (“NPRM”) will likely include important information on how USEPA proposes to change the Project Emissions Accounting Rule. This NPRM will provide invaluable guidance to the Board in this rulemaking. Therefore, this new information on USEPA’s Semiannual Regulatory Agenda timely supplements the record in this proceeding and adds support to the People’s Motion to Stay.

Respectfully submitted,

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

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