

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) R2023-018(A)
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking – Air)
PARTS 201, 202, AND 212)

NOTICE OF FILING

TO: Mr. Don A. Brown,	Timothy Fox
Clerk of the Board	Chloe Salk
Illinois Pollution Control Board	Hearing Officers
100 West Randolph Street,	Illinois Pollution Control Board
Suite 11-500	60 East Van Buren Street, Suite 630
Chicago, Illinois 60601	Chicago, Illinois 60605

(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S RESPONSE TO MOTION FOR ADDITIONAL HEARING**, copies of which, are hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By: /s/ Melissa S. Brown

Dated: November 9, 2023

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R2023-018(A)

CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following: That I have served the attached
RESPONSE TO MOTION FOR ADDITIONAL HEARING via electronic mail upon:

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That my email address is Melissa.Brown@heplerbroom.com

That the number of pages in the email transmission is 6.

That the email transmission took place before 5:00 p.m. on November 9, 2023.

Date: November 9, 2023

/s/ Melissa S. Brown
Melissa S. Brown

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
AMENDMENTS TO 35 ILL. ADM. CODE)	R 23-18(A)
PARTS 201, 202, AND 212)	(Rulemaking – Air)

IERG’S RESPONSE TO MOTION FOR ADDITIONAL HEARING

NOW COMES Petitioner, the ILLINOIS ENVIRONMENTAL REGULATORY GROUP (“IERG”), by and through its undersigned attorneys, pursuant to 35 Ill. Adm. Code 101.500, hereby submits to the Illinois Pollution Control Board (“Board”) its Response to Motion for Additional Hearing. In support of this filing, IERG states as follows:

1. On October 23, 2023, Illinois EPA filed a comment in this sub-docket. In its filing, Illinois EPA included numerous comments as to each of the five regulatory proposals and requested that the Board solicit additional information from each of the rulemaking proponents.
2. On October 26, 2023, the AGO filed a Motion for Additional Hearing, requesting that a third hearing be scheduled in this matter allowing participants the opportunity to question the rulemaking proponents about any responses and/or additional information proponents may file in response to Illinois EPA’s comment.
3. In response to the AGO’s Motion, IERG objects to the request to schedule an additional hearing in this rulemaking.
4. IERG echoes the points made in the American Petroleum Institute’s Response to Motion for Additional Hearing. The AGO’s request for an additional hearing is predicated on Illinois EPA’s October 23, 2023 comment. Illinois EPA has had ample time to make an initial assessment of the information included in the proposals and convey its position as to what

additional information is needed. Illinois EPA had the opportunity to question proponents' witnesses at the First Hearing about the alleged deficiencies and chose not to do so.

5. Additionally, Illinois EPA was aware of the need for many of the alternative emission limitations ("AELs") proposed in this proceeding before it filed its amendments in PCB R 23-18. Stakeholders submitted comments on Illinois EPA's proposed amendments by December 6, 2022. *See, e.g.*, Exhibit 1 to Comment of IERG, PCB R 23-18 (Dec. 30, 2022). The next day, on December 7, 2023, Illinois EPA filed its proposed amendments with the Board in PCB R 23-18. Illinois EPA did not take into consideration the comments submitted by stakeholders.

6. Further, IERG had numerous discussions with Illinois EPA before and after the January 2022 Finding of Inadequacy and SIP Call. IERG conveyed to Illinois EPA, on multiple occasions, its opposition to Illinois EPA's approach to solely remove the startup, malfunction, and breakdown ("SMB") provisions without including any AELs. IERG conveyed the need for AELs and offered to assist Illinois EPA with drafting language for an alternative approach. Instead, Illinois EPA did not conduct sufficient stakeholder outreach and moved forward with filing its proposal to remove the SMB provisions. *See id.*

7. If Illinois EPA engaged in sufficient stakeholder outreach prior to filings its proposal in PCB R 23-18 or at any time during the main rulemaking, the comments provided by Illinois EPA in its October 23, 2023 comment could have been raised and addressed, as needed, significantly sooner.

8. Two hearings on the proposed AELs have already been held in this sub-docket. Illinois EPA chose not to participate in the First Hearing and asked only one follow-up question at the Second Hearing. Illinois EPA should have engaged stakeholders and the rulemaking

participants sooner. A Third Hearing will cause additional delay in the petitioners obtaining the AEL relief that they require.

9. IERG objects to and opposes the October 26, 2023 Motion for an Additional Hearing.

WHEREFORE, for the above and foregoing reasons, the Illinois Environmental Regulatory Group hereby respectfully submits its Response to Motion for Additional Hearing, requesting that the Board enter an Order denying the Motion for an Additional Hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

Dated: November 9, 2023

By: /s/ Melissa S. Brown
One of Its Attorneys

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