

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of: )  
 )  
AMENDMENTS TO ) R2018-20  
 ) (Rulemaking – Air)  
35 ILL. ADM. CODE 225.233, )  
MULTI-POLLUTANT STANDARDS (MPS) )

**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **ENVIRONMENTAL GROUPS' RESPONSE TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S MOTION FOR EXPEDITED REVIEW**, copies of which are served on you along with this notice.

Respectfully Submitted,



Lindsay Dubin  
Environmental Law & Policy Center  
35 E. Wacker Dr., Suite 1600  
Chicago, IL 60601  
ldubin@elpc.org  
(312) 795-3726

Dated: October 16, 2017

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of: )  
 )  
AMENDMENTS TO ) R2018–20  
 ) (Rulemaking – Air)  
35 ILL. ADM. CODE 225.233, )  
MULTI-POLLUTANT STANDARDS (MPS) )

**ENVIRONMENTAL GROUPS’ RESPONSE TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S MOTION FOR EXPEDITED REVIEW**

The Environmental Defense Fund, the Environmental Law & Policy Center, the Respiratory Health Association, and the Sierra Club (collectively, “Environmental Groups”) request that the Pollution Control Board reject and deny the Illinois Environmental Protection Agency’s Motion for Expedited Review of proposed amendments to 35 Ill. Adm. Code 225.233. The Agency’s and Dynegey’s self-created non-emergency does not justify an expedited process that short-circuits the Board’s longstanding history of deliberative and fair consideration of important substantive decisions.

First, the Agency has not met the Board’s standard for an expedited review process because there are no “dire circumstances” here and, indeed, none are asserted. The Board has consistently stated that “the granting of a motion for expedited review [is] unlikely in all but the most dire circumstances.” *See, e.g., In the Matter of: Ameren Ash Pond Closure Rules (Hutsonville Power Station): Proposed 35 Ill. Adm. Code Part 840.101 through 840.152, R09-21, slip op. at 9-10 (June 18, 2009) (denying motion for expedited review).* The Agency wants a regulatory decision sooner – before January 1, 2018 – than the normal rulemaking process would provide because that is apparently preferable for Dynegey’s business purposes. Dynegey’s 2014 business decision to acquire the Ameren-owned coal plants is not a lawful or appropriate basis to truncate the Board’s normal public processes. Likewise, the Agency’s self-imposed deadline of

January 1, 2018 also does not create “dire circumstances.” If the Agency selected a later effective date, which it still can, the rulemaking could proceed on a normal timeline without the need to rush the process.

Illinois courts have reversed the Board when it sought to follow a truncated process through emergency rulemaking proposed by the Agency when the problem, if any, was “self-created,” and there was no “threat to the public interest, safety, or welfare.” See *Citizens for a Better Environment v. Pollution Control Board*, 152 Ill. App. 3d 105, 109-110 (1987). The *Citizens for a Better Environment* court stated:

[T]he need to adopt emergency rules in order to alleviate an administrative need, which, by itself, does not threaten the public interest, safety, or welfare, does not constitute an ‘emergency.’ Notwithstanding that the reasons given by the Board to justify the invocation of emergency rulemaking would indeed ease in the implementation of section 39(h), no facts have been presented to show that without these emergency rules the public would be confronted with a threatening situation.

*Id.* at 109. The Court further explained:

We also note that the Board was cognizant that the administrative problem it is now confronted with could have been prevented. As the Board stated, in order to avoid the implementation problems it now faces, rules should have been adopted at least a year ago. This situation is closely analogous to the case of *Senn Park Nursing Center v. Miller* (1983), 118 Ill. App.3d 733, 455 N.E.2d 162, *aff’d* (1984), 104 Ill.2d 169, 470 N.E.2d 1029. Here, as in *Senn Park*, we have an administrative problem that was self-created and an attempt to remedy the situation was made at the eleventh hour.

*Id.* at 110. In this case, too, “the administrative problem could have been prevented.” Dynegy and the Agency cannot demonstrate that there is “a threat to the public interest, safety, or welfare.”

Second, the Agency’s requested expedited review is not in the public interest. The Agency’s Motion for Expedited Review (“the Agency’s Motion”) seeks to rush a rulemaking that can adversely impact public health and the environment, in various ways, for thousands of

people in Illinois. The requested expedited process could both materially prejudice other parties' abilities to participate fully and effectively in presenting their legal, technical, policy and economic case in these proceedings, and constrain the Board's ability to give full and fair consideration of the facts, applicable law and sweeping extent of the requested changes to the longstanding regulatory framework.

The current Multi-Pollutant Standards regulate emissions of dangerous air pollutants – nitrogen oxides and sulfur dioxide – which are linked to adverse respiratory effects, cardiovascular problems, reproductive and developmental complications, cancer, and an overall increase in mortality in the general population. These regulations were promulgated after extensive negotiations involving the Agency, Dynegy, Ameren, Environmental Groups, and other parties, weeks of public hearings, and an extensive rulemaking process before the Board. Compressing the Board's process of restructuring these regulations into fewer than three months, as requested by the Agency, would dramatically cut short the opportunities for substantive public participation and engagement. Granting the Agency's Motion would materially prejudice the public interest.

Third, condensing the amount of time typically afforded to the public to participate in rulemaking proceedings when Dynegy has had significantly more time to prove its position would violate the Due Process rights of the people impacted by this rulemaking. Dynegy and the Agency first began communicating about the proposed comprehensive changes in the Multi-Pollutant Standards about eight months before making some stakeholders aware of it. Even though the Agency solicited written comments from stakeholders on a draft proposal in late July 2017, stakeholders were given a narrow timeframe to do so and were provided with only a limited amount of the Agency's technical support for the proposal. Expediting review of these

proposed comprehensive changes in the Multi-Pollutant Standards would violate Due Process because it would further constrain full and fair public participation in the rulemaking proceedings. In light of the facts and circumstances of this case, if the Board were to grant the Motion for Expedited Review and adopt the requested very compressed and prejudicial schedule for the proposed substantial regulatory changes, that would cross the line from “skirt[ing] the edge of a Due Process violation” to be a violation of the Due Process Clause of the United States Constitution. *See, e.g., Business & Professional People for the Public Interest v. Illinois Commerce Commission*, 136 Ill. 2d 192, 237 (1989) (finding that “[Commonwealth] Edison received more time to prove its position, but the intervenors did not. This action by the Commission skirts the edge of a due process violation. Because we are reversing the Sixth Order for other reasons, however, we need not decide whether this provision actually violates due process.”).

For these reasons, as further explained below, the Board should reject and deny the Agency’s Motion for Expedited Review.

## **I. Background**

On October 2, 2017, the Agency filed its rulemaking proposal “Amendments to 35 Ill. Adm. Code 225.233, Multi-Pollutant Standards (MPS)” (“the Proposal”) with the Board. This Proposal would revise regulations promulgated as a component of a 2006 Board rulemaking that involved a rigorous public review process, engaged dozens of stakeholders, yielded comments from thousands of individual citizens over the course of more than six months, and precipitated more than two weeks of public hearings. *In the Matter of Proposed New 35 Ill. Adm. Code 225, Control of Emissions from Large Combustion Sources (Mercury), R06-25*, slip op. at 2-3 (Dec. 21, 2006). The rules that emerged from this process in part created two MPS groups: one for the

fleet of coal plants owned by Dynegy at that time and one for the fleet of coal plants owned by Ameren at that time. These regulations furthermore created emissions limits for NO<sub>x</sub> and SO<sub>2</sub> by setting maximum fleet-wide averages emission rates for these two MPS groups.

On December 2, 2013, Dynegy acquired all of the Ameren plants subject to 35 Ill. Adm. Code 225.233. *See, Illinois Power Holdings Completes Acquisition of Ameren Energy Resources*, (Dec. 2, 2013), available at [http://phx.corporate-ir.net/phoenix.zhtml?c=147906&p=irol-newsarticle\\_print&ID=1881131](http://phx.corporate-ir.net/phoenix.zhtml?c=147906&p=irol-newsarticle_print&ID=1881131) (last visited October 16, 2017). As a result, in November 2016, Dynegy approached the Agency about combining the MPS groups. Email from Jeff Ferry, Senior Director State Government Affairs, Dynegy, to Alec Messina, Director, Illinois Environmental Protection Agency (Nov. 7, 2017, 11:09am CST), Attached hereto as Attachment A.

The Agency and Dynegy communicated about and collaborated on the revisions over the course of eight months before the Agency revealed its intent to modify Part 225.233 on July 24, 2017 to a handful of stakeholders. *See, e.g.* Email from Jeff Ferry, Senior Director State Government Affairs, Dynegy, to Julie Armitage, Illinois Environmental Protection Agency (Feb. 1, 2017), attached hereto as Attachment B (setting a meeting to “continue our dialogue on possible MPS revisions.”); Email from Dana Vetterhoffer, Deputy General Counsel, Air Regulatory Unit, Illinois Environmental Protection Agency, to Renee Cipriano, Counsel, Schiff Hardin (on behalf of Dynegy) (May 11, 2017, 4:03pm CST), attached hereto as Attachment C (sending a draft of the revisions soliciting “proposed changes, comments, or questions.”); Email from Renee Cipriano, Counsel, Schiff Hardin (on behalf of Dynegy) to Dana Vetterhoffer, Deputy General Counsel, Air Regulatory Unit, Illinois Environmental Protection Agency (June 12, 2017, 3:54pm CST), attached hereto as Attachment D (agreeing to a discussion with the

Agency to discuss two areas of the MPS changes); Illinois Environmental Protection Agency, *Statement of Reasons, In the Matter of: Amendments to 35 Ill. Adm. Code 225.233, Multi-Pollutant Standards (MPS), R18-20* at 12 (Oct. 2, 2017). When the Agency notified stakeholders of the proposed MPS revisions in July 2017, it provided stakeholders with almost no technical support and did not grant stakeholders any comment extension despite multiple requests. *See, e.g.* Letter from 13 Environmental Groups to the Illinois Environmental Protection Agency (August 14, 2017), Attached hereto as Exhibit E (requesting an extension to comment on the draft proposal). Although stakeholders provided comments on the information that was made available to them, the short duration of the comment period and the lack of technical background documents made it extremely difficult for stakeholders to provide meaningful public input on this complex proposal.

On October 2, 2017, the Agency filed a finalized version of its rulemaking proposal that it had shared with stakeholders in July, accompanied by its Motion for Expedited Review. The Proposal eliminates all limits on the average fleet-wide rate of NO<sub>x</sub> and SO<sub>2</sub> emissions and replaces them with system-wide annual and ozone season tonnage caps. Under the proposed revision, Dynegy plants can emit the full amount of pollution allowed by the caps even if individual units retire, thus allowing some plants to emit more as Dynegy's fleet potentially decreases in size and productivity. The Agency drafted the Proposal to amend these standards beginning January 1, 2018.

The Agency's Motion was filed at the same time as the Proposal, requesting the Board to expedite proceedings on this rulemaking. The Motion's justification was that combining the Dynegy and Ameren MPS groups would provide Dynegy's electric generating units "additional flexibility in complying with the MPS" (Agency's Mot. ¶ 1), and "the sooner these new

provisions are effectuated, the sooner the operational flexibility can be utilized.” (*Id.* at ¶ 5). According to the Agency, “Ensuring this rulemaking is promulgated as expeditiously as possible would simplify compliance determinations for both the Agency and the affected sources, and would allow affected sources the maximum amount of time to plan for compliance with whichever set of standards is in place in the upcoming year.” (*Id.* at ¶ 6).

## **II. Argument**

The Agency’s Motion should be denied because it is not justified, let alone necessitated, by any significant public interest or dire circumstances, and because it would materially prejudice thousands of Illinois residents and ratepayers who will be impacted by this rulemaking. This motion presents no emergency, but rather accommodates Dynegy’s business interests by seeking to support the Agency’s selection of a January 1, 2018 implementation date to provide the company with operational flexibility. Granting the Agency’s Motion, however, would result in material prejudice by constraining the public from providing thorough analysis and feedback on regulations that may result in excessive NO<sub>x</sub> and SO<sub>2</sub> pollution in the many affected communities. It furthermore would violate the Due Process Clause of the United States Constitution because it would further constrain full and fair participation in the rulemaking proceedings.

### **A. No Dire Circumstances Exist**

The Agency’s Motion addresses a self-created non-emergency rather than any dire circumstances that threaten the public interest, safety, or welfare. The Board has consistently asserted, “the granting of a motion for expedited review [is] unlikely in all but the most dire circumstances.” *See In the Matter of: Ameren Ash Pond Closure Rules (Hutsonville Power Station): Proposed 35 Ill. Adm. Code Part 840.101 through 840.152, R09-21*, slip op. at 9-10

(June 18, 2009) (denying motion for expedited review); *In the Matter of: Petition of Westwood Lands, Inc. for an Adjusted Standard from Portions of 35 Ill. Adm. Code 807.104 and 810.103 or, in the Alternative, a Finding of Inapplicability, AS 09-3*, slip op. at 10 (May 21, 2009 (same)).

The circumstances that the Agency asserts as the basis for its request are self-created and certainly not dire. Through its Motion, the Agency hopes to now hasten the rulemaking process simply to meet a January 1, 2018 deadline of its own making that was established seemingly for the sole benefit of Dynegy. The Motion asserts that the sooner the Agency's Proposal to revise 35 Ill. Adm. Code 225.233 is "effectuated, the sooner the operational flexibility [created by the proposal] can be utilized." (Agency's Mot. ¶ 5). However, the Agency has previously argued *against* a motion to expedite review when the movant's justification was that expediting proceedings would solely advance a business interest. *In the Matter of: Ameren Ash Pond Closure Rules (Hutsonville Power Station): Proposed 35 Ill. Adm. Code Part 840.101 through 840.152, R09-21*, slip op. at 5 (June 18, 2009) ("The Agency argues that Ameren's interest in placing its property in a more favorable light [for sale] should not by itself resolve the motion for expedited review.").

However, the speed at which this proposal has advanced until recently would indicate that the operational flexibility requested by Dynegy is not an urgent matter. The Agency and Dynegy did not begin to have conversations related to this specific rulemaking until nearly four years after Dynegy acquired the Ameren plants. Furthermore, once Dynegy approached the Agency about revising the MPS regulations, the Agency did not act as swiftly as it could have on this Proposal. *See e.g.* Attachment A, Email from Alec Messina, Director, Illinois Environmental Protection Agency to Julie Armitage, Illinois Environmental Protection Agency (November 22,

2016) (*stating* “I’ve put this off for a bit, but I’m ready to start mulling” when forwarding the November 7, 2016 email from Jeff Ferry heretofore mentioned in this response). Furthermore, the two organizations then spent eight months discussing and trading drafts of the Proposal before making it known to stakeholders.

Also, to the extent that Dynegy and the Agency now feel pressure to hastily implement any regulations flowing from this rulemaking, this is an administrative problem that is no threat to the public interest, safety, or welfare that could have been—and could still be—prevented. The court in *Citizens for a Better Environment* reversed the Board when it sought to truncate the rulemaking process to remedy through an emergency rulemaking “an administrative problem that was self-created and an attempt to remedy [a] situation [that] was made at the eleventh hour.” 152 Ill. App. 3d 110. The court there found that there was no “threat to the public interest, safety, or welfare” to justify such an emergency rulemaking. *Id.*

Although an emergency rulemaking is not at issue in the matter at hand, the circumstances giving rise to the Agency’s problematic request are comparable. Here, the Agency has also introduced an eleventh-hour rulemaking. The Agency justifies the Motion to Expedite Review by arguing that the rulemaking must be completed with enough time for it and Dynegy to plan accordingly for the Proposal’s January 1, 2018 effective date. By seeking to condense this rulemaking process into a period of less than three months, however, the Agency seeks simply to remedy their and Dynegy’s own procrastination, a self-created problem. Furthermore, this was a deadline proposed by the Agency itself and it was, and still is, within the Agency’s control to propose a later date. Denying this motion would pose no threat to the public interest, safety, or welfare. Thus, these facts simply do not constitute circumstances that warrant

curtailing public process and deliberation of an important public policy that could adversely impact public health and the environment, in various ways, for thousands of people in Illinois

**B. Expediting Proceedings Would Materially Prejudice Affected Communities**

Thousands of people in affected communities would be materially prejudiced were this Motion to be granted. “In acting on a motion for expedited review, the Board will, at a minimum, consider all statutory requirements and whether material prejudice will result from the motion being granted or denied.” 35 Ill. Adm. Code 101.512(b). By contrast, no material prejudice would flow to the Agency or Dynegy from denial of the Agency’s Motion.

Material prejudice would result were the Board to grant the Agency’s Motion because it would impede crucial public participation in a rulemaking that could affect the health of thousands of people. Expedited review would decrease the amount of time that the public would have to participate fully and effectively in presenting their legal, technical, policy, and economic case in these proceedings through activities such as (1) reviewing the Proposal, (2) communicating and collaborating with the Agency and other interested parties about the Proposal, (3) participating in hearings, and (4) submitting comments on the Proposal. Rushing this process would decrease the public’s ability to successfully execute these tasks.

The Agency’s Motion seeks to expedite review of proposed revisions of 35 Ill. Adm. Code 225.233, rules that were a portion of what resulted from a 2006 rulemaking that was collaborative in nature and saw an overwhelming amount of public participation. During the 2006 rulemaking proceedings, the Board received a total of 7,286 public comments provided by dozens of organizations and many public officials. Letter from Dorothy M. Gunn, Clerk, Illinois Pollution Control Board, to Vickie Thomas, Executive Director, Joint Committee on Administrative Rules Re: Second Notice for 35 Ill. Adm. Code 225, Board Docket No. R06-25

(Nov. 14, 2006). According to the Board, “the overwhelming majority of the comments support the adoption of the Agency’s proposal” that led to the MPS regulations that are currently in place. *Id.* The Board furthermore held 18 days of hearings where it gathered testimony from dozens of individuals and organizations. *Id.*

It is critical that the public has a full opportunity to make its voice heard in this matter. The revisions the Agency has proposed are substantive, and go to the heart of the Multipollutant Standards—how emissions of NO<sub>x</sub> and SO<sub>2</sub> are to be limited from Dynegy’s coal-fired power plants. IEPA’s proposal could result in excess or increased pollution in vulnerable communities and deteriorated air quality in the state. The Proposal would not decrease NO<sub>x</sub> and SO<sub>2</sub> tonnage caps if individual units retire, thus allowing some plants to emit more dangerous air pollution as Dynegy’s fleet potentially decreases in size and productivity. This could result in the communities where Dynegy plants would remain being unfairly burdened with even more dangerous air pollution.

Both short- and long-term exposure to both NO<sub>x</sub> and SO<sub>2</sub> can have serious health effects. These pollutants have been linked to respiratory issues like asthma, Chronic Obstructive Pulmonary Disease, coughing, wheezing, and difficulty breathing. *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria*, ENVIRONMENTAL PROTECTION AGENCY at 1-16 to 1-20 at 1-16 to 1-20 (Jan. 2016), available at [http://ofmpub.epa.gov/eims/eimscomm.getfile?p\\_download\\_id=526855](http://ofmpub.epa.gov/eims/eimscomm.getfile?p_download_id=526855); *Integrated Science Assessment for Sulfur Oxides—Health Criteria*, ENVIRONMENTAL PROTECTION AGENCY, at 3-5 (Sept. 2008), available at [http://ofmpub.epa.gov/eims/eimscomm.getfile?p\\_download\\_id=491274](http://ofmpub.epa.gov/eims/eimscomm.getfile?p_download_id=491274). There is even a positive association between NO<sub>x</sub> and/or SO<sub>2</sub> and cardiovascular problems, reproductive and

developmental complications, an increase in the incidence of cancer, and an overall increase in mortality in the general population. *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria*, ENVIRONMENTAL PROTECTION AGENCY at 1-16 to 1-20 at lxxix; 1-22 to 1-36; *Integrated Science Assessment for Sulfur Oxides—Health Criteria*, ENVIRONMENTAL PROTECTION AGENCY, at 3-34 to 3-42, 3-60 to 3-63.

The Agency's Motion is at odds with the purpose of Illinois' clean air laws and regulations, which were designed in part to "restore, maintain, and enhance the purity of the air of this State in order to protect health, welfare, property, and the quality of life and to assure that no air contaminants are discharged into the atmosphere without being given the degree of treatment or control necessary to prevent pollution." 415 ILCS 5/8. Since the Agency's Proposal and Motion could have a negative effect on air quality for thousands of residents, it is not consistent with protecting "public interest, welfare, and safety." *Id.* Thus, expedited review in this matter would serve as a barrier to the public adequately advocating on behalf of affected communities and other stakeholders statewide, resulting in material prejudice.

On the other hand the Agency failed to demonstrate that any material prejudice would occur if the Motion for Expedited Review is not granted. In fact, the motion essentially framed expedited review as a convenience, stating that the Proposal would provide "additional" flexibility, (Agency's Mot. ¶ 1), and expediting deliberations would "simplify" compliance determinations and give Dynegey "the maximum amount of time to plan for compliance." (*Id.* at ¶ 6).

The Agency's silence on material prejudice in this Motion can be viewed through the lens of other Board decisions on motions for expedited review. For example, the Board has previously found that member companies that belong to the Illinois Environmental Regulatory

Group (“IERG”) “may suffer uncertainty if expedited review is not granted. However, even considerable uncertainty does not rise to the level of material prejudice sufficient to allow the Board to grant IERG’s request.” *In the Matter of: NO<sub>x</sub> Trading Program: Amendments to 35 ILL. ADM. CODE Part 2017, R06-22*, slip op. at 4 (Apr. 20, 2006). (Denying IERG’s motion to expedite review of IEPA’s proposal to amend regulations governing NO<sub>x</sub> emissions). *See also In the Matter of: Proposed Site-Specific NO<sub>x</sub> Rule Amendment Applicable to Saint-Gobain Containers, Inc. at 30 ILL. ADM. Code 2017.152(b), R2011-17* slip op. at 4 (Dec. 2, 2010) (denying the owner of a glass manufacturing plant’s motion for expedited review in part because a company’s “interest in regulatory certainty” does “not necessarily constitute ‘material prejudice’ or dire circumstances”). Thus, the Agency has not demonstrated material prejudice to a degree that would cause the Board to grant its motion.

**C. Denying the Public a Fair Opportunity to Comment Would Violate Due Process**

Finally, expediting this rulemaking would violate the public’s right to Due Process. A regulatory agency in the State of Illinois can violate the Due Process Clause of the United States Constitution by giving a company more time than other interested parties to prove its position during regulatory proceedings. *Bus. & Prof'l'l People for the Pub. Interest v. Ill. Commerce Comm'n*, 136 Ill. 2d 192, 237 (1989) (finding that the Illinois Commerce Commission “skirt[ed] the edge of a due process violation” by granting Commonwealth Edison more opportunities than intervenors on behalf ratepayers to demonstrate its position on the value of rates for electric service.). Dynegy and the Agency spent eight months, from November 2016 to July 2017, discussing and writing the Proposal before notifying a handful of stakeholders of its existence. Despite repeated requests for more time, stakeholders were given less than one month to weigh in on the Proposal and were given only limited technical information when doing so. Now that

the Proposal is before the Board, the Agency seeks to condense all rulemaking proceedings into fewer than three months, prohibiting the public from engaging in a full and fair rulemaking process. This rule revision thus far has served to give Dynegy a platform to collaborate for many months with the Agency on rewriting its own regulations, and expediting review of the Proposal would violate the affected public's Due Process rights.

**III. Conclusion**

For the reasons stated above, the Agency's Motion is unwarranted and works against the interests of the public. It would short-circuit a process intended to allow meaningful public input and the Board's careful consideration of complex matters of great importance to the health of Illinois communities. Consistent with this Board's prior decisions on similar motions, Environmental Groups request that the Board reject and deny the Illinois Environmental Protection Agency's Motion for Expedited Review of proposed amendments to 35 Ill. Adm. Code 225.233.

Respectfully Submitted,



---

Greg Wannier  
Faith Bugel  
Sierra Club  
85 Second Street, Second Floor  
San Francisco, CA 94105  
(415) 977-5646

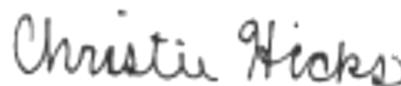


Lindsay P. Dubin  
Environmental Law & Policy Center  
35 E. Wacker Drive, Suite 1600  
Chicago, IL 60601  
(312) 795-3726



---

Brian P. Urbaszewski



Christie Hicks

Director, Environmental Health Programs  
Respiratory Health Association  
1440 W. Washington Blvd.  
Chicago, IL 60607  
(312) 628-0245

Manager, Clean Energy Regulatory  
Implementation  
ENVIRONMENTAL DEFENSE FUND  
18 S. Michigan Ave., 12<sup>th</sup> Fl.  
Chicago, IL 60603  
(314) 520-1035

Date: October 16, 2017

# **Attachment A**

**Armitage, Julie**

---

**From:** Armitage, Julie  
**Sent:** Tuesday, November 22, 2016 8:55 AM  
**To:** Marr, Linda  
**Subject:** FW: [External] MPS Rule

Pls print

---

**From:** Messina, Alec  
**Sent:** Tuesday, November 22, 2016 8:34 AM  
**To:** Armitage, Julie  
**Subject:** Fwd: [External] MPS Rule

Email 2 of 2

I've put this off for a bit, but I'm ready to start mulling. Take a look, and let's have a quick chat.

Sent from my iPhone

Begin forwarded message:

**From:** "Ferry, Jeff" <[Jeff.Ferry@dynegy.com](mailto:Jeff.Ferry@dynegy.com)>  
**Date:** November 7, 2016 at 11:09:56 AM CST  
**To:** Alec Messina <[Alec.Messina@Illinois.gov](mailto:Alec.Messina@Illinois.gov)>  
**Subject:** [External] MPS Rule

We have discussed this in the past but wanted to take your pulse on combining or merging the MPS groups, rules, and mixing Kincaid in the the overall Dynegy rule, since the MPS only applies to Dynegy. We are still looking at this internally, but are also wondering if it would be best approached by inserting into a large energy legislation package should the opportunity arise, running as separate bill, or managing via filings at IEPA and/or IPCB. Thinking that the easier the route the better but am not sure what the easier route is as I am not sure what would be required by IEPA, IPCB (?), if we opted to go in that direction. As for legislation, if we are put on spot in next couple of weeks and need an additional ask, this could be worked into mix but would not do without getting some comfort level with you and Governor's Office of course. Thoughts. Happy to chat.

Jeffrey A. Ferry  
Senior Director State Government Affairs  
Dynegy

133 S. 4th, Suite 306  
Springfield, IL 62701

217 – 519 – 4762 (Cellular)  
[Jeff.ferry@dynegy.com](mailto:Jeff.ferry@dynegy.com)

IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

AUG 25 2017

REVIEWER: MED

# **Attachment B**

**Armitage, Julie**

---

**From:** Armitage, Julie  
**Sent:** Thursday, February 02, 2017 4:40 PM  
**To:** Ferry, Jeff; Messina, Alec  
**Cc:** Elzinga, Sherrie  
**Subject:** RE: Dynegy and MPS Revisions

Hi Jeff. Sorry for the delayed response. BOA has nearly finalized its review of your proposal. At this time, I would guess that we could be ready to meet late next week or early the following week. Of course, the meeting will be dependent on respective schedule availability. I believe that Sherrie returns Monday. If we can place hold until then, she might be best situated to work on scheduling. Looking forward to the next dialogue. Take care.

---

**From:** Ferry, Jeff [mailto:Jeff.Ferry@dynegy.com]  
**Sent:** Wednesday, February 01, 2017 9:48 AM  
**To:** Armitage, Julie; Messina, Alec  
**Subject:** [External] Dynegy and MPS Revisions

Greetings – As discussed with Sherie last week, I am checking in “midweek” to see if we can set a meeting to continue our dialogue on possible MPS revisions. In furtherance of that effort, if there is anything more that Rick or Jim can provide or questions that can be answered in advance or prepared to answer at meeting please let me know or feel free to reach out to Rick and Jim directly. Thanks, Jeff.

Jeffrey A. Ferry  
Senior Director State Government Affairs  
Dynegy

133 S. 4th, Suite 306  
Springfield, IL 62701

217 – 519 – 4762 (Cellular)  
[Jeff.ferry@dynegy.com](mailto:Jeff.ferry@dynegy.com)



IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

AUG 25 2017

REVIEWER: MED

# **Attachment C**

**Roccaforte, Gina**

---

**From:** Vetterhoffer, Dana  
**Sent:** Thursday, May 11, 2017 4:03 PM  
**To:** Cipriano, Renee (RCipriano@schiffhardin.com)  
**Subject:** MPS Draft Revisions  
**Attachments:** Part 225 Discussion Draft 5-1.docx

Hi Renee. Attached are the Agency's draft revisions to the MPS, for your and Dynegy's review. Please direct any proposed changes, comments, or questions to Gina Roccaforte or myself.

Thanks,

Dana Vetterhoffer  
Deputy General Counsel, Air Regulatory Unit  
Illinois Environmental Protection Agency  
(217)782-5544 fax: (217)782-9807

~~This e-mail and its contents may be a confidential attorney-client, attorney work product and/or pre-decisional FOIA-exempt document intended solely for the use of the individual(s) to whom it is addressed. If you are not an/the intended recipient and have received this e-mail in error, please be advised that any use, forwarding, printing or copying of this e-mail is prohibited.~~

MED

~~State of Illinois - CONFIDENTIALITY NOTICE. The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.~~

IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

AUG 25 2017

REVIEWER: MED



Please note that the document provided below is in draft form only and is subject to any and all applicable disclaimers found on the Illinois EPA's "Privacy Policy and Disclaimers" webpage. The contents herein may be changed during the course of the development of the described rulemaking proposal and will not be considered in "final" form until it is filed with the Illinois Pollution Control Board. Further, any reference to or use of the draft document below for any purpose other than as a basis for providing comments to the Illinois EPA, including the reference to or use of the draft documents as "final" documents or information, is prohibited.

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 225  
CONTROL OF EMISSIONS FROM LARGE COMBUSTION SOURCES

SUBPART A: GENERAL PROVISIONS

Section	
225.100	Severability
225.120	Abbreviations and Acronyms
225.130	Definitions
225.140	Incorporations by Reference

SUBPART B: CONTROL OF MERCURY EMISSIONS FROM COAL-FIRED ELECTRIC GENERATING UNITS

Section	
225.200	Purpose
225.202	Measurement Methods
225.205	Applicability
225.210	Compliance Requirements
225.220	Clean Air Act Permit Program (CAAPP) Permit Requirements
225.230	Emission Standards for EGUs at Existing Sources
225.232	Averaging Demonstrations for Existing Sources
225.233	Multi-Pollutant Standards (MPS)
225.234	Temporary Technology-Based Standard for EGUs at Existing Sources
225.235	Units Scheduled for Permanent Shut Down
225.237	Emission Standards for New Sources with EGUs
225.238	Temporary Technology-Based Standard for New Sources with EGUs
225.240	General Monitoring and Reporting Requirements
225.250	Initial Certification and Recertification Procedures for Emissions Monitoring
225.260	Out of Control Periods for Emission Monitors
225.261	Additional Requirements to Provide Heat Input Data

IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

AUG 25 2017

REVIEWER: MED

225.263	Monitoring of Gross Electrical Output
225.265	Coal Analysis for Input Mercury Levels
225.270	Notifications
225.290	Recordkeeping and Reporting
225.291	Combined Pollutant Standard: Purpose
225.292	Applicability of the Combined Pollutant Standard
225.293	Combined Pollutant Standard: Notice of Intent
225.294	Combined Pollutant Standard: Control Technology Requirements and Emissions Standards for Mercury
225.295	Combined Pollutant Standard: Emissions Standards for NO <sub>x</sub> and SO <sub>2</sub>
225.296	Combined Pollutant Standard: Control Technology Requirements for NO <sub>x</sub> , SO <sub>2</sub> , and PM Emissions
225.297	Combined Pollutant Standard: Permanent Shut-Downs
225.298	Combined Pollutant Standard: Requirements for NO <sub>x</sub> and SO <sub>2</sub> Allowances
225.299	Combined Pollutant Standard: Clean Air Act Requirements

SUBPART C: CLEAN AIR ACT INTERSTATE RULE (CAIR) SO<sub>2</sub> TRADING PROGRAM

Section	
225.300	Purpose
225.305	Applicability
225.310	Compliance Requirements
225.315	Appeal Procedures
225.320	Permit Requirements
225.325	Trading Program

SUBPART D: CAIR NO<sub>x</sub> ANNUAL TRADING PROGRAM

Section	
225.400	Purpose
225.405	Applicability
225.410	Compliance Requirements
225.415	Appeal Procedures
225.420	Permit Requirements
225.425	Annual Trading Budget
225.430	Timing for Annual Allocations
225.435	Methodology for Calculating Annual Allocations
225.440	Annual Allocations
225.445	New Unit Set-Aside (NUSA)
225.450	Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy
225.455	Clean Air Set-Aside (CASA)
225.460	Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects
225.465	Clean Air Set-Aside (CASA) Allowances
225.470	Clean Air Set-Aside (CASA) Applications

- 225.475 Agency Action on Clean Air Set-Aside (CASA) Applications
- 225.480 Compliance Supplement Pool

SUBPART E: CAIR NO<sub>x</sub> OZONE SEASON TRADING PROGRAM

- | Section | Purpose  |
|---------|--|
| 225.500 | Purpose  |
| 225.505 | Applicability  |
| 225.510 | Compliance Requirements  |
| 225.515 | Appeal Procedures  |
| 225.520 | Permit Requirements  |
| 225.525 | Ozone Season Trading Budget  |
| 225.530 | Timing for Ozone Season Allocations  |
| 225.535 | Methodology for Calculating Ozone Season Allocations   |
| 225.540 | Ozone Season Allocations   |
| 225.545 | New Unit Set-Aside (NUSA)  |
| 225.550 | Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy |
| 225.555 | Clean Air Set-Aside (CASA)   |
| 225.560 | Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects                        |
| 225.565 | Clean Air Set-Aside (CASA) Allowances  |
| 225.570 | Clean Air Set-Aside (CASA) Applications  |
| 225.575 | Agency Action on Clean Air Set-Aside (CASA) Applications   |

SUBPART F: COMBINED POLLUTANT STANDARDS

- 225.600 Purpose (Repealed)
- 225.605 Applicability (Repealed)
- 225.610 Notice of Intent (Repealed)
- 225.615 Control Technology Requirements and Emissions Standards for Mercury (Repealed)
- 225.620 Emissions Standards for NO<sub>x</sub> and SO<sub>2</sub> (Repealed)
- 225.625 Control Technology Requirements for NO<sub>x</sub>, SO<sub>2</sub>, and PM Emissions (Repealed)
- 225.630 Permanent Shut-Downs (Repealed)
- 225.635 Requirements for CAIR SO<sub>2</sub>, CAIR NO<sub>x</sub>, and CAIR NO<sub>x</sub> Ozone Season Allowances (Repealed)
- 225.640 Clean Air Act Requirements (Repealed)
- 225.APPENDIX A Specified EGUs for Purposes of the CPS Midwest Generation's Coal-Fired Boilers as of July 1, 2006
- 225.APPENDIX B Continuous Emission Monitoring Systems for Mercury
  - 225.EXHIBIT A Specifications and Test Procedures
  - 225. EXHIBIT B Quality Assurance and Quality Control Procedures
  - 225. EXHIBIT C Conversion Procedures
  - 225 EXHIBIT D Quality Assurance and Operating Procedures for Sorbent Trap Monitoring Systems

AUTHORITY: Implementing and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27].

SOURCE: Adopted in R06-25 at 31 Ill. Reg. 129, effective December 21, 2006; amended in R06-26 at 31 Ill. Reg. 12864, effective August 31, 2007; amended in R09-10 at 33 Ill. Reg. 10427, effective June 26, 2009; amended in R15-21 at 39 Ill. Reg. 16225, effective December 7, 2015; amended in R17-\_\_ at \_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**SUBPART B: CONTROL OF MERCURY EMISSIONS FROM COAL-FIRED ELECTRIC GENERATING UNITS**

**Section 225.233 Multi-Pollutant Standards (MPS)**

- a) General.
  - 1) As an alternative to compliance with the emissions standards of Section 225.230(a), the owner of eligible EGUs may elect for those EGUs to demonstrate compliance pursuant to this Section, which establishes control requirements and standards for emissions of NO<sub>x</sub> and SO<sub>2</sub>, as well as for emissions of mercury.
  - 2) For the purpose of this Section, the following requirements apply:
    - A) An eligible EGU is an EGU that is located in Illinois and which commenced commercial operation on or before December 31, 2004; and
    - B) Ownership of an eligible EGU is determined based on direct ownership, by the holding of a majority interest in a company that owns the EGU or EGUs, or by the common ownership of the company that owns the EGU, whether through a parent-subsidiary relationship, as a sister corporation, or as an affiliated corporation with the same parent corporation, provided that the owner has the right or authority to submit a CAAPP application on behalf of the EGU.
  - 3) The owner of one or more EGUs electing to demonstrate compliance with this Subpart B pursuant to this Section must submit an application for a CAAPP permit modification to the Agency, as provided in Section 225.220, that includes the information specified in subsection (b) of this Section and which clearly states the owner's election to demonstrate compliance pursuant to this Section 225.233.
    - A) If the owner of one or more EGUs elects to demonstrate compliance with this Subpart pursuant to this Section, then all

EGUs it owns in Illinois as of July 1, 2006, as defined in subsection (a)(2)(B) of this Section, must be thereafter subject to the standards and control requirements of this Section, except as provided in subsection (a)(3)(B). Such EGUs must be referred to as a Multi-Pollutant Standard (MPS) Group.

- B) Notwithstanding the foregoing, the owner may exclude from an MPS Group any EGU scheduled for permanent shutdown that the owner so designates in its CAAPP application required to be submitted pursuant to subsection (a)(3) of this Section, with compliance for such units to be achieved by means of Section 225.235.

4) Notwithstanding any contrary provision in this subsection (a), on and after January 1, 2018:

A) The following EGUs shall be merged into a new MPS Group: Baldwin Units 1, 2, and 3; Coffeen Units 1 and 2; Duck Creek Unit 1; E.D. Edwards Units 2 and 3; Havana Unit 9; Hennepin Units 1 and 2; Joppa Units 1, 2, 3, 4, 5, and 6; and Newton Unit 1. If one or more of the above EGUs are transferred to a different owner, such EGU or EGUs will become a separate MPS Group on and after the date of transfer. For purposes of this Section, "transfer" means sale, conveyance, transfer, or other change in EGU ownership of an EGU; and

B) No other EGUs except for those listed in subsection (a)(4)(A) of this Section are subject to the requirements of this Section.

54) When an EGU is subject to the requirements of this Section, the requirements apply to all owners or operators of the EGU.

b) Notice of Intent.

The owner of one or more EGUs that intends to comply with this Subpart B by means of this Section must notify the Agency of its intention by December 31, 2007. The following information must accompany the notification:

- 1) The identification of each EGU that will be complying with this Subpart B by means of the multi-pollutant standards contained in this Section, with evidence that the owner has identified all EGUs that it owned in Illinois as of July 1, 2006 and which commenced commercial operation on or before December 31, 2004;
- 2) If an EGU identified in subsection (b)(1) of this Section is also owned or operated by a person different than the owner submitting the notice of

intent, a demonstration that the submitter has the right to commit the EGU or authorization from the responsible official for the EGU accepting the application;

- 3) The Base Emission Rates for the EGUs, with copies of supporting data and calculations;
  - 4) A summary of the current control devices installed and operating on each EGU and identification of the additional control devices that will likely be needed for the each EGU to comply with emission control requirements of this Section, including identification of each EGU in the MPS group that will be addressed by subsection (c)(1)(B) of this Section, with information showing that the eligibility criteria for this subsection (b) are satisfied; and
  - 5) Identification of each EGU that is scheduled for permanent shut down, as provided by Section 225.235, which will not be part of the MPS Group and which will not be demonstrating compliance with this Subpart B pursuant to this Section.
- c) Control Technology Requirements for Emissions of Mercury.
- 1) Requirements for EGUs in an MPS Group.
    - A) For each EGU in an MPS Group other than an EGU that is addressed by subsection (c)(1)(B) of this Section for the period beginning July 1, 2009 (or December 31, 2009 for an EGU for which an SO<sub>2</sub> scrubber or fabric filter is being installed to be in operation by December 31, 2009), and ending on December 31, 2014 (or such earlier date that the EGU is subject to the mercury emission standard in subsection (d)(1) of this Section), the owner or operator of the EGU must install, to the extent not already installed, and properly operate and maintain one of the following emission control devices:
      - i) A Halogenated Activated Carbon Injection System, complying with the sorbent injection requirements of subsection (c)(2) of this Section, except as may be otherwise provided by subsection (c)(4) of this Section, and followed by a Cold-Side Electrostatic Precipitator or Fabric Filter; or
      - ii) If the boiler fires bituminous coal, a Selective Catalytic Reduction (SCR) System and an SO<sub>2</sub> Scrubber.
    - B) An owner of an EGU in an MPS Group has two options under this subsection (c). For an MPS Group that contains EGUs smaller

than 90 gross MW in capacity, the owner may designate any such EGUs to be not subject to subsection (c)(1)(A) of this Section. Or, for an MPS Group that contains EGUs with gross MW capacity of less than 115 MW, the owner may designate any such EGUs to be not subject to subsection (c)(1)(A) of this Section, provided that the aggregate gross MW capacity of the designated EGUs does not exceed 4% of the total gross MW capacity of the MPS Group. For any EGU subject to one of these two options, unless the EGU is subject to the emission standards in subsection (d)(2) of this Section, beginning on January 1, 2013, and continuing until such date that the owner or operator of the EGU commits to comply with the mercury emission standard in subsection (d)(2) of this Section, the owner or operator of the EGU must install and properly operate and maintain a Halogenated Activated Carbon Injection System that complies with the sorbent injection requirements of subsection (c)(2) of this Section, except as may be otherwise provided by subsection (c)(4) of this Section, and followed by either a Cold-Side Electrostatic Precipitator or Fabric Filter. The use of a properly installed, operated, and maintained Halogenated Activated Carbon Injection System that meets the sorbent injection requirements of subsection (c)(2) of this Section is defined as the "principal control technique."

- 2) For each EGU for which injection of halogenated activated carbon is required by subsection (c)(1) of this Section, the owner or operator of the EGU must inject halogenated activated carbon in an optimum manner, which, except as provided in subsection (c)(4) of this Section, is defined as all of the following:
  - A) The use of an injection system designed for effective absorption of mercury, considering the configuration of the EGU and its ductwork;
  - B) The injection of halogenated activated carbon manufactured by Alstom, Norit, or Sorbent Technologies, Calgon Carbon's FLUEPAC CF Plus, or Calgon Carbon's FLUEPAC MC Plus, or the injection of any other halogenated activated carbon or sorbent that the owner or operator of the EGU has demonstrated to have similar or better effectiveness for control of mercury emissions; and
  - C) The injection of sorbent at the following minimum rates, as applicable:
    - i) For an EGU firing subbituminous coal, 5.0 lbs per million actual cubic feet or, for any cyclone-fired EGU that will

- install a scrubber and baghouse by December 31, 2012, and which already meets an emission rate of 0.020 lbs mercury/GWh gross electrical output or at least 75 percent reduction of input mercury, 2.5 lbs per million actual cubic feet;
- ii) For an EGU firing bituminous coal, 10.0 lbs per million actual cubic feet for any cyclone-fired EGU that will install a scrubber and baghouse by December 31, 2012, and which already meets an emission rate of 0.020 lb mercury/GWh gross electrical output or at least 75 percent reduction of input mercury, 5.0 lbs per million actual cubic feet;
  - iii) For an EGU firing a blend of subbituminous and bituminous coal, a rate that is the weighted average of the above rates, based on the blend of coal being fired; or
  - iv) A rate or rates set lower by the Agency, in writing, than the rate specified in any of subsections (c)(2)(C)(i), (c)(2)(C)(ii), or (c)(2)(C)(iii) of this Section on a unit-specific basis, provided that the owner or operator of the EGU has demonstrated that such rate or rates are needed so that carbon injection will not increase particulate matter emissions or opacity so as to threaten noncompliance with applicable requirements for particulate matter or opacity.
- D) For the purposes of subsection (c)(2)(C) of this Section, the flue gas flow shall be the gas flow rate in the stack for all units except for those equipped with activated carbon injection prior to a hot-side electrostatic precipitator; for units equipped with activated carbon injection prior to a hot-side electrostatic precipitator, the flue gas flow rate shall be the gas flow rate at the inlet to the hot-side electrostatic precipitator, which shall be determined as the stack flow rate adjusted through the use of Charles' Law for the differences in gas temperatures in the stack and at the inlet to the electrostatic precipitator ( $V_{esp} = V_{stack} \times T_{esp}/T_{stack}$ , where V = gas flow rate in acf and T = gas temperature in Kelvin or Rankine
- 3) The owner or operator of an EGU that seeks to operate an EGU with an activated carbon injection rate or rates that are set on a unit-specific basis pursuant to subsection (c)(2)(C)(iv) of this Section must submit an application to the Agency proposing such rate or rates, and must meet the requirements of subsections (c)(3)(A) and (c)(3)(B) of this Section, subject to the limitations of subsections (c)(3)(C) and (c)(3)(D) of this Section:

- A) The application must be submitted as an application for a new or revised federally enforceable operating permit for the EGU, and it must include a summary of relevant mercury emission data for the EGU, the unit-specific injection rate or rates that are proposed, and detailed information to support the proposed injection rate or rates; and
  - B) This application must be submitted no later than the date that activated carbon must first be injected. For example, the owner or operator of an EGU that must inject activated carbon pursuant to subsection (c)(1)(A) of this subsection must apply for unit-specific injection rate or rates by July 1, 2009. Thereafter, the owner or operator of the EGU may supplement its application; and
  - C) Any decision of the Agency denying a permit or granting a permit with conditions that set a lower injection rate or rates may be appealed to the Board pursuant to Section 39 of the Act; and
  - D) The owner or operator of an EGU may operate at the injection rate or rates proposed in its application until a final decision is made on the application, including a final decision on any appeal to the Board.
- 4) During any evaluation of the effectiveness of a listed sorbent, an alternative sorbent, or other technique to control mercury emissions, the owner or operator of an EGU need not comply with the requirements of subsection (c)(2) of this Section for any system needed to carry out the evaluation, as further provided as follows:
- A) The owner or operator of the EGU must conduct the evaluation in accordance with a formal evaluation program submitted to the Agency at least 30 days prior to commencement of the evaluation;
  - B) The duration and scope of the evaluation may not exceed the duration and scope reasonably needed to complete the desired evaluation of the alternative control technique, as initially addressed by the owner or operator in a support document submitted with the evaluation program;
  - C) The owner or operator of the EGU must submit a report to the Agency no later than 30 days after the conclusion of the evaluation that describes the evaluation conducted and which provides the results of the evaluation; and
  - D) If the evaluation of the alternative control technique shows less effective control of mercury emissions from the EGU than was achieved with the principal control technique, the owner or

operator of the EGU must resume use of the principal control technique. If the evaluation of the alternative control technique shows comparable effectiveness to the principal control technique, the owner or operator of the EGU may either continue to use the alternative control technique in a manner that is at least as effective as the principal control technique, or it may resume use of the principal control technique. If the evaluation of the alternative control technique shows more effective control of mercury emissions than the control technique, the owner or operator of the EGU must continue to use the alternative control technique in a manner that is more effective than the principal control technique, so long as it continues to be subject to this subsection (c).

- 5) In addition to complying with the applicable recordkeeping and monitoring requirements in Sections 225.240 through 225.290, the owner or operator of an EGU that elects to comply with this Subpart B by means of this Section must also comply with the following additional requirements:
  - A) For the first 36 months that injection of sorbent is required, it must maintain records of the usage of sorbent, the fluegas flow rate from the EGU (and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack), and the sorbent feed rate, in pounds per million actual cubic feet of flue, on a weekly average;
  - B) After the first 36 months that injection of sorbent is required, it must monitor activated sorbent feed rate to the EGU, gas flow rate in the stack, and, if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, flue gas temperature at the inlet of the hot-side electrostatic precipitator and in the stack. It must automatically record this data and the sorbent carbon feed rate, in pounds per million actual cubic feet of flue gas, on an hourly average; and
  - C) If a blend of bituminous and subbituminous coal is fired in the EGU, it must keep records of the amount of each type of coal burned and the required injection rate for injection of activated carbon, on a weekly basis.
- 6) Until June 30, 2012, as an alternative to the CEMS or excepted monitoring system (sorbent trap system) monitoring, recordkeeping, and reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU may elect to comply with the emissions testing, monitoring,

recordkeeping, and reporting requirements in Section 225.239(c), (d), (e), (f)(1) and (2), (h)(2), (i)(3) and (4), and (j)(1).

- 7) In addition to complying with the applicable reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU that elects to comply with this Subpart B by means of this Section must also submit quarterly reports for the recordkeeping and monitoring conducted pursuant to subsection (c)(5) of this Section.
- d) Emission Standards for Mercury.
- 1) For each EGU in an MPS Group that is not addressed by subsection (c)(1)(B) of this Section, beginning January 1, 2015 (or such earlier date when the owner or operator of the EGU notifies the Agency that it will comply with these standards) and continuing thereafter, the owner or operator of the EGU must comply with one of the following standards on a rolling 12-month basis:
    - A) An emission standard of 0.0080 lb mercury/GWh gross electrical output; or
    - B) A minimum 90-percent reduction of input mercury.
  - 2) For each EGU in an MPS Group that has been addressed under subsection (c)(1)(B) of this Section, beginning on the date when the owner or operator of the EGU notifies the Agency that it will comply with these standards and continuing thereafter, the owner or operator of the EGU must comply with one of the following standards on a rolling 12-month basis:
    - A) An emission standard of 0.0080 lb mercury/GWh gross electrical output; or
    - B) A minimum 90-percent reduction of input mercury.
  - 3) Compliance with the mercury emission standard or reduction requirement of this subsection (d) must be calculated in accordance with Section 225.230(a) or (d), or Section 225.232 until December 31, 2013.
  - 4) Until June 30, 2012, as an alternative to demonstrating compliance with the emissions standards in this subsection (d), the owner or operator of an EGU may elect to comply with the emissions testing requirements in Section 225.239(a)(4), (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this Subpart.
- e) Emission Standards for NO<sub>x</sub> and SO<sub>2</sub>.

- 1) NO<sub>x</sub> Emission Standards.
  - A) Beginning in calendar year 2012 and continuing through calendar year 2017 in each calendar thereafter, for the EGUs in each MPS Group, the owner and operator of the EGUs must comply with an overall NO<sub>x</sub> annual emission rate of no more than 0.11 lb/million Btu or an emission rate equivalent to 52 percent of the Base Annual Rate of NO<sub>x</sub> emissions, whichever is more stringent.
  - B) Beginning in the 2012 ozone season and continuing through the 2017 and continuing in each ozone season thereafter, for the EGUs in each MPS Group, the owner and operator of the EGUs must comply with an overall NO<sub>x</sub> seasonal emission rate of no more than 0.11 lb/million Btu or an emission rate equivalent to 80 percent of the Base Seasonal Rate of NO<sub>x</sub> emissions, whichever is more stringent.
  - C) Except as otherwise provided in subsection (f) of this Section, beginning in calendar year 2018 and continuing in each calendar year thereafter, the owner and operator of the EGUs in an MPS Group must not cause or allow to be discharged into the atmosphere combined annual NO<sub>x</sub> emissions in excess of 25,000 tons from all EGUs.
  - D) Except as otherwise provided in subsection (f) of this Section, beginning in the year 2018 and continuing in each year thereafter, from May 1 to September 30, the owner and operator of the EGUs in an MPS Group must not cause or allow to be discharged into the atmosphere combined NO<sub>x</sub> emissions in excess of 11,500 tons from all EGUs.
  - E) On and after January 1, 2018, the owner and operator of Baldwin Units 1, 2, and 3; Coffeen Units 1 and 2; Duck Creek Unit 1; E.D. Edwards Unit 3; and Havana Unit 9 must:
    - i) Operate existing SCR control systems on the EGUs in accordance with good operating practices at all times the EGUs are operating; and
    - ii) From May 1 to September 30, comply with a combined NO<sub>x</sub> average emission rate of no more than 0.10 lb/mmBtu.
- 2) SO<sub>2</sub> Emission Standards.

- A) Beginning in calendar year 2013 and continuing in calendar year 2014, for the EGUs in each MPS Group, the owner and operator of the EGUs must comply with an overall SO<sub>2</sub> annual emission rate of 0.33 lb/million Btu or a rate equivalent to 44 percent of the Base Rate of SO<sub>2</sub> emissions, whichever is more stringent.
- B) Beginning in calendar year 2015 and continuing through calendar year 2017 in each calendar year thereafter, for the EGUs in each MPS Grouping, the owner and operator of the EGUs must comply with an overall annual emission rate for SO<sub>2</sub> of 0.25 lbs/million Btu or a rate equivalent to 35 percent of the Base Rate of SO<sub>2</sub> emissions, whichever is more stringent.
- C) Except as otherwise provided in subsection (f) of this Section, beginning in calendar year 2018 and continuing in each calendar year thereafter, the owner and operator of the EGUs in an MPS Group must not cause or allow to be discharged into the atmosphere combined annual SO<sub>2</sub> emissions in excess of 55,000 tons from all EGUs.
- D) Beginning in calendar year 2018 and continuing in each calendar year thereafter, the owner and operator of Joppa Units 1, 2, 3, 4, 5, and 6 must not cause or allow to be discharged into the atmosphere combined annual SO<sub>2</sub> emissions in excess of 19,860 tons from such EGUs.
- E) Beginning in calendar year 2018 and continuing in each calendar year thereafter, the owner and operator of each EGU in an MPS Group must comply with an annual SO<sub>2</sub> emission rate of no more than 0.55 lb/mmBtu for each EGU.
- f) Shutdown or Transfer of EGU or EGUs in an MPS Group.
  - 1) If one or more EGUs in an MPS Group permanently shut down, such EGU or EGUs are no longer part of an MPS Group and no longer subject to the requirements of this Section. For the remaining EGUs in an MPS Group, the combined emissions limitations set forth in subsections (e)(1) and (e)(2) of this Section, as applicable, must be adjusted by subtracting from those limitations the applicable unit allocation amounts set forth in Columns A, B, and C in subsection (f)(3) of this Section that are attributable to the shutdown EGU or EGUs. The owner and operator of the EGUs in the MPS Group must comply with the adjusted combined emissions limitations beginning in the calendar year in which the pertinent regional transmission organization approves the removal of the shutdown EGU or EGUs from the electrical grid. The owner and operator must

notify the Agency's Bureau of Air, Compliance Section, in writing within seven days of the date of such approval. The notification must include the following information:

- A) Name and address of the owner and operator;
  - B) List of the EGU or EGUs permanently shut down; and
  - C) For the remaining EGUs in the MPS Group, calculations pursuant to this subsection (f)(1) demonstrating the adjusted combined annual NO<sub>x</sub> emissions limitation, the adjusted combined NO<sub>x</sub> emissions limitation from May 1 to September 30, and the adjusted combined annual SO<sub>2</sub> emissions limitation that are applicable to the MPS Group.
- 2) If one or more EGUs in an MPS Group are transferred to a different owner:
- A) For the MPS Group from which one or more EGUs is transferred: The combined emissions limitations for the MPS Group set forth in subsections (c)(1) and (c)(2) of this Section, as applicable, must be adjusted by subtracting from those limitations the applicable unit allocation amounts set forth in Columns A, B, and C in subsection (f)(3) of this Section that are attributable to the transferred EGU or EGUs. The owner and operator of the MPS Group must comply with the adjusted emissions limitations beginning in the calendar year in which the transfer takes place.
  - B) For a new MPS Group consisting of the acquired EGU or EGUs:
    - i) The owner and operator of the EGUs in an MPS Group must not cause or allow to be discharged into the atmosphere combined annual NO<sub>x</sub> emissions in excess of the applicable annual NO<sub>x</sub> limitation from all EGUs. The applicable annual NO<sub>x</sub> limitation shall be the sum of the unit allocation amounts attributable to all EGUs in the MPS Group set forth in Column A of subsection (f)(4) of this Section.
    - ii) From May 1 to September 30, the owner and operator of the EGUs in an MPS Group must not cause or allow to be discharged into the atmosphere combined NO<sub>x</sub> emissions in excess of the applicable seasonal NO<sub>x</sub> limitation from all EGUs. The applicable seasonal NO<sub>x</sub> limitation shall be the sum of the unit allocation amounts attributable to all EGUs

in the MPS Group set forth in Column B of subsection (f)(4) of this Section.

iii) The owner and operator of the EGUs in an MPS Group must not cause or allow to be discharged into the atmosphere combined annual SO<sub>2</sub> emissions in excess of the applicable annual SO<sub>2</sub> limitation from all EGUs. The applicable annual SO<sub>2</sub> limitation shall be the sum of the unit allocation amounts attributable to all EGUs in the MPS Group set forth in Column C of subsection (f)(4) of this Section.

C) If any of the EGUs specified in subsection (e)(1)(E) of this Section are transferred to a different owner, the new owner and operator of the EGU or EGUs must comply with the provisions of subsections (e)(1)(E)(i) and (e)(1)(E)(ii) of this Section on and after the date of transfer. If the transfer takes place between May 1 and September 30, the new owner and operator must also demonstrate compliance with the provisions of subsection (e)(1)(E)(ii) of this Section for the entire May 1 through September 30 compliance period.

D) The owner and operator of the EGU or EGUs as of the last day of the applicable compliance period must demonstrate compliance with the emission standards of this Section for the entire applicable compliance period.

3) Unit Allocation Amounts in the Event of Transfer or Shutdown of EGUs.

		<u>Column A. Unit NO<sub>x</sub> Allocation Amount (TPY) in the Event of Transfer or Shutdown</u>	<u>Column B. Unit NO<sub>x</sub> Allocation Amount (May 1 - Sept 30 Tons) in the Event of Transfer or Shutdown</u>	<u>Column C. Unit SO<sub>2</sub> Allocation Amount (TPY) in the Event of Transfer or Shutdown</u>
A)	<u>Baldwin 1</u>	<u>2,300</u>	<u>1,048</u>	<u>5,800</u>
B)	<u>Baldwin 2</u>	<u>2,200</u>	<u>974</u>	<u>4,700</u>
C)	<u>Baldwin 3</u>	<u>2,300</u>	<u>1,041</u>	<u>5,000</u>
D)	<u>Havana 9</u>	<u>2,000</u>	<u>898</u>	<u>4,300</u>

E)	<u>Hennepin 1</u>	<u>300</u>	<u>130</u>	<u>700</u>
F)	<u>Hennepin 2</u>	<u>900</u>	<u>462</u>	<u>2,000</u>
G)	<u>Coffeen 1</u>	<u>1,200</u>	<u>534</u>	<u>2,600</u>
H)	<u>Coffeen 2</u>	<u>2,000</u>	<u>902</u>	<u>4,400</u>
I)	<u>Duck Creek 1</u>	<u>1,800</u>	<u>818</u>	<u>4,000</u>
J)	<u>E.D. Edwards 2</u>	<u>1,200</u>	<u>540</u>	<u>2,600</u>
K)	<u>E.D. Edwards 3</u>	<u>1,700</u>	<u>747</u>	<u>3,600</u>
L)	<u>Joppa 1</u>	<u>900</u>	<u>374</u>	<u>1,800</u>
M)	<u>Joppa 2</u>	<u>900</u>	<u>374</u>	<u>1,800</u>
N)	<u>Joppa 3</u>	<u>900</u>	<u>374</u>	<u>1,800</u>
O)	<u>Joppa 4</u>	<u>900</u>	<u>374</u>	<u>1,800</u>
P)	<u>Joppa 5</u>	<u>900</u>	<u>374</u>	<u>1,800</u>
Q)	<u>Joppa 6</u>	<u>900</u>	<u>374</u>	<u>1,800</u>
R)	<u>Newton 1</u>	<u>2,700</u>	<u>1,212</u>	<u>5,800</u>

4) Unit Allocation Amounts for EGUs in a New MPS Group.

	<u>Column A.</u>	<u>Column B.</u>	<u>Column C.</u>	
	<u>Unit NO<sub>x</sub></u>	<u>Unit NO<sub>x</sub></u>	<u>Unit SO<sub>2</sub></u>	
	<u>Allocation</u>	<u>Allocation</u>	<u>Allocation</u>	
	<u>Amount</u>	<u>Amount (May</u>	<u>Amount</u>	
	<u>(TPY) for</u>	<u>1 - Sept 30</u>	<u>(TPY) for</u>	
	<u>New MPS</u>	<u>Tons) for New</u>	<u>New MPS</u>	
	<u>Group in the</u>	<u>MPS Group in</u>	<u>Group in the</u>	
	<u>Event of</u>	<u>the Event of</u>	<u>Event of</u>	
	<u>Transfer</u>	<u>Transfer</u>	<u>Transfer</u>	
A)	<u>Baldwin 1</u>	<u>2,100</u>	<u>1,048</u>	<u>2,100</u>
B)	<u>Baldwin 2</u>	<u>1,800</u>	<u>974</u>	<u>1,800</u>
C)	<u>Baldwin 3</u>	<u>2,200</u>	<u>1,041</u>	<u>2,300</u>

D)	<u>Havana 9</u>	<u>1,400</u>	<u>898</u>	<u>1,400</u>
E)	<u>Hennepin 1</u>	<u>200</u>	<u>130</u>	<u>600</u>
F)	<u>Hennepin 2</u>	<u>800</u>	<u>462</u>	<u>1,900</u>
G)	<u>Coffeen 1</u>	<u>900</u>	<u>534</u>	<u>900</u>
H)	<u>Coffeen 2</u>	<u>1,800</u>	<u>902</u>	<u>4,300</u>
I)	<u>Duck Creek 1</u>	<u>1,100</u>	<u>818</u>	<u>3,900</u>
J)	<u>E.D. Edwards 2</u>	<u>1,100</u>	<u>540</u>	<u>2,500</u>
K)	<u>E.D. Edwards 3</u>	<u>1,600</u>	<u>747</u>	<u>3,500</u>
L)	<u>Joppa 1</u>	<u>800</u>	<u>374</u>	<u>1,700</u>
M)	<u>Joppa 2</u>	<u>800</u>	<u>374</u>	<u>1,700</u>
N)	<u>Joppa 3</u>	<u>800</u>	<u>374</u>	<u>1,700</u>
O)	<u>Joppa 4</u>	<u>800</u>	<u>374</u>	<u>1,700</u>
P)	<u>Joppa 5</u>	<u>800</u>	<u>374</u>	<u>1,700</u>
Q)	<u>Joppa 6</u>	<u>800</u>	<u>374</u>	<u>1,700</u>
R)	<u>Newton 1</u>	<u>2,600</u>	<u>1,212</u>	<u>5,700</u>

5) If one or more EGUs in an MPS Group are transferred to a different owner:

A) The transferring owner must notify the Agency's Bureau of Air, Compliance Section, in writing within seven days of the date of transfer. The notification must include the following information:

- i) Name and address of the transferring owner and operator;
- ii) List of the EGUs transferred;
- iii) For the remaining EGUs in the MPS Group, calculations pursuant to subsection (f)(2)(A) of this Section demonstrating the adjusted combined annual NO<sub>x</sub> emissions limitation, the adjusted combined NO<sub>x</sub> emissions

limitation from May 1 to September 30, and the adjusted combined annual SO<sub>2</sub> emissions limitation that are applicable to the MPS Group;

iv) Name and address of the new owner and operator; and

v) Date of transfer.

B) The acquiring owner must notify the Agency's Bureau of Air, Compliance Section, in writing within seven days of the date of transfer. The notification must include the following information:

i) Name and address of the acquiring owner and operator;

ii) Name and address of the transferring owner and operator;

iii) List of the EGUs acquired;

iv) Calculations pursuant to subsection (f)(2)(B) of this Section demonstrating the combined annual NO<sub>x</sub> emissions limitation, the combined NO<sub>x</sub> emissions limitation from May 1 to September 30, and the combined annual SO<sub>2</sub> emissions limitation that are applicable to the acquiring owner and operator's MPS Group; and

v) Date of transfer.

~~3) Ameren MPS Group Multi Pollutant Standard~~

~~A) Notwithstanding the provisions of subsections (e)(1) and (2) of this Section, this subsection (e)(3) applies to the Ameren MPS Group as described in the notice of intent submitted by Ameren Energy Resources in accordance with subsection (b) of this Section.~~

~~B) NO<sub>x</sub> Emission Standards:~~

~~i) Beginning in the 2010 ozone season and continuing in each ozone season thereafter, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an overall NO<sub>x</sub> seasonal emission rate of no more than 0.14 lb/million Btu.~~

~~ii) Beginning in calendar year 2010 and continuing in calendar year 2011, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an~~

~~overall NO<sub>x</sub> annual emission rate of no more than 0.14 lb/million Btu.~~

- ~~iii) Beginning in calendar year 2012 and continuing in each calendar year thereafter, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an overall NO<sub>x</sub> annual emission rate of no more than 0.11 lb/million Btu.~~

~~C) SO<sub>2</sub> Emission Standards~~

- ~~i) Beginning in calendar year 2010 and continuing in each calendar year through 2013, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an overall SO<sub>2</sub> annual emission rate of 0.50 lb/million Btu.~~

- ~~ii) In calendar year 2014, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an overall SO<sub>2</sub> annual emission rate of 0.43 lb/million Btu.~~

- ~~iii) Beginning in calendar year 2015 and continuing in calendar year 2016, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an overall SO<sub>2</sub> annual emission rate of 0.25 lb/million Btu.~~

- ~~iv) Beginning in calendar year 2017 and continuing in each calendar year thereafter, for the EGUs in the Ameren MPS Group, the owner and operator of the EGUs must comply with an overall SO<sub>2</sub> annual emission rate of 0.23 lb /million Btu.~~

- 6) Compliance with the NO<sub>x</sub> and SO<sub>2</sub> emission standards must be demonstrated in accordance with Sections 225.310, 225.410, and 225.510. The owner or operator of EGUs must complete the demonstration of compliance before March 1 of the following year for annual standards and before November 1 for seasonal standards, by which date a compliance report must be submitted to the Agency.

gf) Requirements for NO<sub>x</sub> and SO<sub>2</sub> Allowances.

- 1) The owner or operator of EGUs in an MPS Group must not sell or trade to any person or otherwise exchange with or give to any person NO<sub>x</sub> allowances allocated to the EGUs in the MPS Group for vintage years 2012 and beyond that would otherwise be available for sale, trade, or

exchange as a result of actions taken to comply with the standards in subsection (e) of this Section. Such allowances that are not retired for compliance must be surrendered to the Agency on an annual basis, beginning in calendar year 2013. This provision does not apply to the use, sale, exchange, gift, or trade of allowances among the EGUs in an MPS Group.

- 2) The owners or operators of EGUs in an MPS Group must not sell or trade to any person or otherwise exchange with or give to any person SO<sub>2</sub> allowances allocated to the EGUs in the MPS Group for vintage years 2013 and beyond that would otherwise be available for sale or trade as a result of actions taken to comply with the standards in subsection (e) of this Section. Such allowances that are not retired for compliance, or otherwise surrendered pursuant to a consent decree to which the State of Illinois is a party, must be surrendered to the Agency on an annual basis, beginning in calendar year 2014. This provision does not apply to the use, sale, exchange, gift, or trade of allowances among the EGUs in an MPS Group.
- 3) The provisions of this subsection (f) do not restrict or inhibit the sale or trading of allowances that become available from one or more EGUs in a MPS Group as a result of holding allowances that represent over-compliance with the NO<sub>x</sub> or SO<sub>2</sub> standard in subsection (e) of this Section, once such a standard becomes effective, whether such over-compliance results from control equipment, fuel changes, changes in the method of operation, unit shut downs, or other reasons.
- 4) For purposes of this subsection (f), NO<sub>x</sub> and SO<sub>2</sub> allowances mean allowances necessary for compliance with Sections 225.310, 225.410, or 225.510, 40 CFR 72, or Subparts AA and AAAA of 40 CFR 96, or any future federal NO<sub>x</sub> or SO<sub>2</sub> emissions trading programs that modify or replace these programs. This Section does not prohibit the owner or operator of EGUs in an MPS Group from purchasing or otherwise obtaining allowances from other sources as allowed by law for purposes of complying with federal or state requirements, except as specifically set forth in this Section.
- 5) By March 1, 2010, and continuing each year thereafter, the owner or operator of EGUs in an MPS Group must submit a report to the Agency that demonstrates compliance with the requirements of this subsection (f) for the previous calendar year, and which includes identification of any allowances that have been surrendered to the USEPA or to the Agency and any allowances that were sold, gifted, used, exchanged, or traded because they became available due to over-compliance. All allowances that are required to be surrendered must be surrendered by August 31, unless USEPA has not yet deducted the allowances from the previous year. A

final report must be submitted to the Agency by August 31 of each year, verifying that the actions described in the initial report have taken place or, if such actions have not taken place, an explanation of all changes that have occurred and the reasons for such changes. If USEPA has not deducted the allowances from the previous year by August 31, the final report will be due, and all allowances required to be surrendered must be surrendered, within 30 days after such deduction occurs.

- ~~g) Notwithstanding 35 Ill. Adm. Code 201.146(hhh), until an EGU has complied with the applicable emission standards of subsections (d) and (e) of this Section for 12 months, the owner or operator of the EGU must obtain a construction permit for any new or modified air pollution control equipment that it proposes to construct for control of emissions of mercury, NO<sub>x</sub>, or SO<sub>2</sub>.~~

(Source: Amended at \_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_\_)

# **Attachment D**

**Vetterhoffer, Dana**

---

**From:** Vetterhoffer, Dana  
**Sent:** Monday, June 12, 2017 3:55 PM  
**To:** Bloomberg, David E.  
**Subject:** FW: MPS changes--another call today?

**Importance:** High

Time set?

Thanks,  
Dana

**From:** Cipriano, Renee [mailto:RCipriano@schiffhardin.com]  
**Sent:** Monday, June 12, 2017 3:54 PM  
**To:** Vetterhoffer, Dana <Dana.Vetterhoffer@Illinois.gov>  
**Cc:** Roccaforte, Gina <Gina.Roccaforte@Illinois.gov>  
**Subject:** [External] RE: MPS changes--another call today?

Yes. Still two areas we would like to discuss. I was going to call Gina. Sorry. Do you have a time set?

---

**From:** Vetterhoffer, Dana [mailto:Dana.Vetterhoffer@Illinois.gov]  
**Sent:** Monday, June 12, 2017 3:42 PM  
**To:** Cipriano, Renee  
**Cc:** Roccaforte, Gina  
**Subject:** MPS changes--another call today?

Hi Renee. Jim reached out to David about having a quick discussion this afternoon regarding the rule language. Are you available to participate?

Thanks,

Dana Vetterhoffer  
Deputy General Counsel, Air Regulatory Unit  
Illinois Environmental Protection Agency  
(217)782-5544 fax: (217)782-9807

IEPA - DIVISION OF RECORDS MANAGEMENT  
RELEASABLE

AUG 25 2017

REVIEWER: MED

This e-mail and its contents may be a confidential attorney-client, attorney work product and/or pre-decisional FOIA-exempt document intended solely for the use of the individual(s) to whom it is addressed. If you are not an intended recipient and have received this e-mail in error, please be advised that any use, forwarding, printing or copying of this e-mail is prohibited.

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.

MED  
1

# **Attachment E**

August 14, 2017

David Bloomberg  
Manager, Air Quality Planning Section  
Illinois Environmental Protection Agency  
1021 N. Grand Ave. East  
Springfield, IL 62794

Dear Mr. Bloomberg,

The Central Illinois Healthy Community Alliance, Eco-Justice Collaborative, Environmental Law & Policy Center, Global Warming Solutions Group of Central Illinois, Illinois Environmental Council, Illinois People's Action, Illinois PIRG, Metro East Green Alliance, Natural Resources Defense Council, Peoria Families Against Toxic Waste, Prairie Rivers Network, Respiratory Health Association, and Sierra Club are writing to request IEPA provide a 30-day extension for our organizations to submit public comments on IEPA's and Dynegey Inc.'s proposal to modify the Multi-Pollutant Standards rule within Part 225 of the Illinois Pollution Control Board's (PCB's) air regulations (35 Ill. Adm. Code 225).

First, thank you for sharing this proposal with our organizations before submitting it to the PCB. We appreciate IEPA's efforts to solicit substantive and meaningful feedback from the public. Nonetheless, the public was provided with less than a month to provide feedback on this proposal, which was made available on July 27, 2017 with a comment deadline of August 25, 2017. Additionally, IEPA provided a limited amount of documented technical support for its proposal on August 9, 2017, less than three weeks before the comment deadline. Even though our groups wasted no time requesting to meet with IEPA to get information on this proposal, IEPA's timeline is at odds with the goal of obtaining meaningful public comments.

In addition, as IEPA acknowledged, it was Dynegey that initially requested this rulemaking, and the company communicated back and forth with IEPA as this proposal was being developed. We are now requesting our own opportunity to have an exchange with IEPA on Dynegey's proposal. However IEPA's current comment deadline is an inadequate amount of time for us to gather enough information to be able to engage with IEPA in a productive manner. It is crucial that our groups have an opportunity to participate in an exchange with IEPA because the proposed modifications would significantly change the state's air quality regulations and could have a major impact on the wellbeing of the public.

Therefore, we ask that IEPA provide a 30-day extension of its comment deadline from August 25, 2017 to September 24, 2017.

Thank you for your consideration,

**Tracy Fox**  
Volunteer  
Central Illinois Healthy Community Alliance

**Alexandra Cope**  
Metro East Green Alliance

**Pamela Richart**  
Co-Founder  
Eco-Justice Collaborative

**Elizabeth Toba Pearlman**  
Staff Attorney/Clean Energy Advocate  
Midwest Program  
Natural Resources Defense Council

**Janet McCabe**  
Senior Law Fellow  
Environmental Law & Policy Center

**Lisa Offutt**  
Treasurer  
Peoria Families Against Toxic Waste

**Kiersten Sheets**  
Founder  
Global Warming Solutions Group of Central  
Illinois

**Carol Hays**  
Executive Director  
Prairie Rivers Network

**Jennifer Walling**  
Executive Director  
Illinois Environmental Council

**Brian P. Urbaszewski**  
Director, Environmental Health Programs  
Respiratory Health Association

**Reverend Tony Pierce**  
Board President  
Illinois People's Action

**Faith Bugel**  
Attorney  
Sierra Club

**Abraham Scarr**  
Director  
Illinois PIRG

cc: Alec Messina, Director, IEPA  
Chris Pressnall, Environmental Justice Officer, IEPA

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of: )  
)  
AMENDMENTS TO ) R2018-20  
) (Rulemaking – Air)  
35 ILL. ADM. CODE 225.233, )  
MULTI-POLLUTANT STANDARDS (MPS) )

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true copy of the foregoing **ENVIRONMENTAL GROUPS' RESPONSE TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S MOTION FOR EXPEDITED REVIEW** on behalf of the Environmental Law & Policy Center in R2018-20 were served upon the attached service list by e-mail on October 16, 2017.

*/s/ John Agada*

---

John Agada  
Legal Assistant  
Environmental Law and Policy  
Center  
35 E Wacker Drive. Suite 1600  
Chicago, Illinois 60601  
(312) 795-3719

**SERVICE LIST:**

Don Brown, Assistant Clerk  
Mark Powell, Hearing Officer,  
Marie Tipsord, Hearing Officer  
Illinois Pollution Control Board James R.  
Thompson Center Suite 11-500  
100 W. Randolph Street  
312-814-3461  
Chicago, Illinois 60601  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Eric Lohrenz  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, IL 62702-1271  
217-782-1809 (phone)  
217-524-9640 (fax)  
[eric.lohrenz@illinois.gov](mailto:eric.lohrenz@illinois.gov)

Gina Roccaforte  
Dana Vetterhoffer  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
217-782-5544 (phone)  
217-782-9807 (fax)  
[gina.roccaforte@Illinois.gov](mailto:gina.roccaforte@Illinois.gov)  
[dana.vetterhoffer@illinois.gov](mailto:dana.vetterhoffer@illinois.gov)

Amy C. Antonioli  
Joshua R. More  
Ryan Granholm  
Schiff Hardin LLP  
233 S. Wacker Drive  
Suite 6600  
Chicago, IL 60606  
312-258-5769  
[aantonioli@schiffhardin.com](mailto:aantonioli@schiffhardin.com)  
[jmore@schiffhardin.com](mailto:jmore@schiffhardin.com)

[rgranholm@schiffhardin.com](mailto:rgranholm@schiffhardin.com)

Andrew Armstrong  
Office of the Attorney General  
500 South Second Street  
Springfield, IL 62706  
217-782-9031 (phone)  
217-524-7740 (fax)  
[aarmstrong@atg.state.il.us](mailto:aarmstrong@atg.state.il.us)

Greg Wannier  
Staff Attorney  
Sierra Club  
2101 Webster St., Suite 1300  
Oakland CA 94612  
[greg.wannier@sierraclub.org](mailto:greg.wannier@sierraclub.org)

James Gignac  
Stephen Sylvester  
Office of the Attorney General  
69 West Washington Street, Suite 1800  
Chicago, IL 60602  
[jgignac@atg.state.il.us](mailto:jgignac@atg.state.il.us)  
[ssylvester@atg.state.il.us](mailto:ssylvester@atg.state.il.us)

Faith Bugel  
Attorney at Law  
1004 Mohawk  
Wilmette, IL 60091  
[fbugel@gmail.com](mailto:fbugel@gmail.com)