

BEFORE THE ILLINOIS  
POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
PROPOSED CLEAN CAR AND ) Rulemaking Air ) R24-17  
TRUCK STANDARDS: )  
PROPOSED 35 ILL. ADM. )  
CODE 242 )

I am responding to the submittal of the Illinois EPA filed April 28, 2025, in opposition to this rulemaking petition to adopt the California standards that would eventually prohibit the sale of non-zero-emission vehicles.

Let me introduce myself. I remember the first Earth Day when I was in high school. Fast forward to the end of that decade, I took the only course on environmental law at Rutgers Law School, which in those early days dealt primarily with NEPA. My career commenced at the McLean County State's Attorney's Office where I indicted two separate companies for felony hazardous waste offenses; these were some of the first such charges in the State after that law was enacted in 1983. Coming to the Illinois EPA in December 1984, I consider myself to be a part of the "second-generation" within the Illinois EPA; the "first-generation" were the folks from Public Health and other State units to this agency created by the General Assembly. I worked four years with many of these many committed State employees (whose names and professional careers and testimony in favor of environmental protection are in the Board's archives) with both technical staff and my fellow attorneys in what was then the "Enforcement Division" and is now the "Division of Legal Counsel" with the new mission of defending the Illinois EPA rather than making timely referrals of significant environmental violations to the Attorney General's Office for enforcement action. While at the Illinois EPA, I had the useful experience of also working with the first and second generations of Pollution Control Board members such as Jacob Dumelle (who served 21 years on the Board) and also Ron Flemal and John Marlin, among others of whom you current members ought to know. In fact, I assisted the Board in its revision of the procedural rules, especially in regard to evidentiary matters due to my extensive trial experience. I continued my public service with the Attorney General's Office, first in the Asbestos Bureau and then in the Environmental Bureau. The Board's archives contain hundreds of complaints filed and signed by me on behalf of four different Attorneys General and the People of the State of Illinois. While I had to abruptly retire on disability in 2014, I am proud of the successes my staff and I achieved. Toward the end of my 25 years with the Office, I also had the privilege of working with Barbara Flynn Currie and numerous other legislators and stakeholders during the extensive negotiations to regulate fracking back in 2013. My point here is simply that my lengthy professional environmental protection record on behalf of the State of Illinois qualifies me to take a long view regarding our unique environmental protection system in Illinois. In the spring of 1970, the Illinois General Assembly passed the Illinois Environmental Protection Act, thereby creating the Illinois EPA and the Pollution Control Board, the first and most comprehensive legal framework and state regulatory agencies in the entire

nation dedicated to cleaning up and protecting our environment. We must be proud of and strive to preserve and further our heritage.

Let's consider these beginnings to avoid any hint of "backsliding" which has been a big concern of the Board then and since. The Constitution of 1970, Article XI, Section 2, provides: "Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law." In addition to this Constitutional right, I and my fellow citizens rely upon the findings of the General Assembly in enacting the Illinois Environmental Protection Act as set forth in pertinent parts of Section 2(a) of the Act as follows: "i) that environmental damage seriously endangers the public health and welfare . . . iii) that air, water, and other resource pollution, public water supply, solid waste disposal, noise, and other environmental problems are closely interrelated and must be dealt with as a unified whole in order to safeguard the environment; iv) that it is the obligation of the State . . . to promote the development of technology for environmental protection and conservation of natural resources . . . v) that in order to alleviate the burden on enforcement agencies, to ensure that all interests are given a full hearing, and to increase public participation in the task of protecting the environment, private as well as governmental remedies must be provided; vi) that despite the existing laws and regulation concerning environmental damage there exist continuing destruction and damage to the environment and harm to the public health, safety and welfare of the people of this State. . . ." Section 2(b) of the Act provides: "It is the purpose of this Act . . . to establish a unified state-wide program supplemented by private remedies to restore, protect and enhance the quality of the environment, and to assure that the adverse upon the environment are fully considered and borne by those who cause them." Section 2(c) of the Act mandates: "The terms and conditions of this Act shall be liberally construed so as to effectuate the purposes of this Act." Please note especially the obligation "to promote the development of technology" because this is the crux of this present rulemaking.

I strongly suggest that our Constitutional right to a healthful environment in conjunction with these explicit legislative findings are unequivocal mandates upon both the Board and the Illinois EPA. The obvious objective of our laws and regulations is to make continuous progress in reducing polluttional emissions and discharges into the environment as technologies also progress. The clean car and truck standards at issue here manifest the progress that Illinois citizens demand to protect their health. The public comments overwhelmingly support the adoption of these standards, yet the Illinois EPA opposes this progress without even addressing the air quality concerns so well voiced by so many impacted citizens. Does the Illinois EPA not accept these comments at face value? Is there any reason to disregard and ignore these comments? Why is there no real discussion of air quality concerns in the April 28, 2025, submittal of the Illinois EPA?

Based on my experience in working within and with (and sometimes despite) the Illinois EPA, I suggest that the Illinois EPA could not actually function without federal funding. The Trump 2.0 counterrevolution and its overt attacks against the federal regulatory systems, and especially the environmental protection programs,

are likely already coercing the Illinois EPA to deviate from its air pollution control mission. Current events support my pessimism. This is where the Board must stand firm to resist the bullying of changing federal policy (increasingly inconsistent with the actual Congressional actions) to undermine and perhaps demolish the regulations so painstakingly promulgated by the Board. The Board cannot abdicate and forsake the progress it has made over the past five decades just because President Trump believes he has a "mandate" (with less than 50% of the popular vote in the last election) to restructure the government and to reboot the global economy. The efforts to pervert the federal EPA and to intimidate the States to knuckle under are indeed the "backsliding" the Board has always rejected. Denying the advance of progress is quintessentially the dreaded backsliding. The political bias that the Illinois EPA now espouses is simply disgusting. Does Governor Pritzker know about this abject abdication of his State agency to the irrational whims of Trump's EPA and their overall "cancel culture" as to public health, worker safety and basic environmental protections? After 55 years of fairly good service to our citizens, to whom does our Illinois EPA now owe its loyalty? Us or them? I sincerely conflate the lobby interests opposing progress with this federal backsliding. After all, does anybody reasonably expect the regulated community to pursue any real progress in emissions control when the designated regulators are simply not interested in real progress.

I suspect that the biennial State Air Partnership Agreement (if such has been negotiated and possibly executed already) is a driving force here with the Illinois EPA's otherwise inexplicable opposition to these standards. Consistency with federal rules was an appropriate obligation when those federal rules were not in essence backsliding. Now, with all due urgency, our State of Illinois through its unique and effective Board to control pollution must stand up against what I argue is just federal bullying. What the Illinois EPA is doing through its opposition to progress is unfortunately abdicating its technological role and duty to make progress in ensuring our Constitutional right to a healthful environment for our children and grandchildren is safeguarded. Our present generations continue to suffer from air pollution which kills at least 100k of our fellow citizens nationally year after year. The environmental movement has always been about the future and the protection of the air, land and waters for our descendants (who will of course be expected to question why we here and now did not do what needed to be done). If any examples are really necessary for this discussion, I suggest reviewing the successful prohibitions regarding the otherwise ubiquitous use of leaded gasoline and asbestos products. This is what progress looks like.

In closing, I ask that the Board seriously consider and take to heart the hundreds of public comments in support of the progress in protecting their health. I implore the Board to adopt the California standards that would eventually prohibit the sale of non-zero-emission vehicles. I also implore the Board to stand up against the coercion of the Trump administration and its intentional backsliding.

Submitted by Thomas Davis, Springfield Illinois  
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