

ILLINOIS POLLUTION CONTROL BOARD  
October 28, 2024

IN THE MATTER OF: )  
)  
PROPOSED CLEAN CAR AND TRUCK ) R 24-17  
STANDARDS: PROPOSED 35 ILL. ADM. ) (Rulemaking – Air)  
CODE 242 )

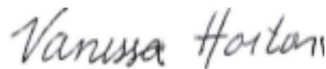
**HEARING OFFICER ORDER**

On June 27, 2024, the Sierra Club, Natural Resources Defense Council, Environmental Defense Fund, Respiratory Health Association, Chicago Environmental Justice Network, and Center for Neighborhood Technology (collectively, Proponents) proposed that the Board adopt a new Part 242 of its air pollution rules. On July 11, 2024, the Board accepted the proposal for hearing and has scheduled the first hearing for December 2, and 3, 2024, with prefiling deadlines of October 28, 2024, for written questions directed at the Proponents' witnesses and November 18, 2024, for pre-filed answers.

The Board and its Staff have reviewed the pre-filed testimony filed by the Proponents in this matter, and submit with this order their questions to those witnesses, included as Attachment A. Anyone may file a comment, and anyone may respond to the attached questions, as well as any other pre-filed questions on the record.

All filings in this proceeding will be available on the Board's website at <https://pcb.illinois.gov> in the rulemaking docket [R24-17](#). Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the [Clerk's Office On-Line](#). 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

IT IS SO ORDERED.



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## ATTACHMENT A

### R24-17

#### Proposed Clean Car and Truck Standards: Proposed 35 Ill. Adm. Code 242

#### Questions Directed to Kathy Harris and Muhammed Patel

1. On page 3 of your joint testimony, you state that even if the proposed rules are implemented in Model Year (MY) 2029, i.e., the rules are adopted after January 2, 2025, they will still be feasible.
  - a. Please comment on the whether the adoption of the proposed rules after January 2, 2025 (effective for MY 2029) would be consistent with the requirements of the CARB regulations incorporated by reference under Section 242.103.
  - b. If not, would the proposed rules need to be revised to accommodate the change in the model year from MY 2028 to MY 2029? Please propose any necessary revisions to allow for effective date of the later model year.
  - c. Page 17 of the Statement of Reasons reports that USEPA granted California a waiver for ACT on April 6, 2023. SR at 17, n.33, citing 88 Fed. Reg. 20688 (Apr. 6, 2023). Proponents report that USEPA “has not yet issued waivers for the ACC II and Low NO<sub>x</sub> rules.” Proponents add that USEPA issued “[a]n initial notice of a proposed waiver for ACC II” on December 16, 2023, and “an initial notice of a proposed waiver for the Low NO<sub>x</sub> rule” on June 13, 2022, SR at 17, n.33, citing 88 Fed. Reg. 88908 (Dec. 26, 2023); 87 Fed. Reg. 35765 (June 13, 2022). Since the proponents filed their proposal, has USEPA granted a waiver or taken any other action on these initial notices? If so, please provide a citation to such action.
  - d. Would Section 177(1) of the Clean Air Act prohibit states from modifying the Clean Car and Truck Standards prior to adoption?
2. On page 4 of your joint testimony, you note that “higher sales percentages” for ZEVs will be required if the implementation date is moved to MY 2029.
  - a. What are the higher sales percentage values that would be required for MY 2029?
  - b. Would the higher sales percentages be codified in the rules? If so, please propose appropriate revisions to the rule proposal.
3. On page 4, Footnote No. 3 of your testimony, you note, “to ensure that emissions are reduced as intended, these provisions are limited to no more than 15% of a manufacturer’s obligation in MY 2028 and phase out completely after MY 2030.” Please comment on whether the 15% limit and the three-year phase out period would still apply if the rules are adopted after January 2, 2025.

4. On page 5 of your testimony you note, “to ensure ZEV tractors, which includes class 7 and 8 vehicles that typically haul freight on highways, will be available to reduce emissions at ports and other areas with high tractor concentrations, only Class 7 and 8 tractor credits may be used to satisfy Class 7 and 8 tractor deficits.” Please comment on whether there are concerns about availability of ZEV tractors in ports and areas with high tractor concentrations to meet the proposed targets.
5. On page 6 of your testimony, you set forth the ZEV sales percentage requirements and the weight class modifiers in two tables. Please comment on whether these requirements and modifiers are affected if the rules are adopted after January 2, 2025. If so, please submit revised requirements to reflect a later adoption date.
6. Pages 34-35 of the Statement of Reasons, state that plug in hybrid electric vehicles (PHEVs), which meet specific requirements, may be “used to meet up to 20% of a manufacturer’s annual zero-emission vehicle (ZEV) requirements.”
  - a. Will this percentage be applied consistently through 2035 or will this mechanism be phased out by the time manufacturer sales are 100% ZEVs?
  - b. What are the specific requirements for a PHEV to be used towards a manufacturer’s annual ZEV requirement?
7. The Board is aware of three current pending appeals of various portions of the California Clean Car and Truck Standards: (1) *The Two Hundred for Homeownership, et. al. v. Steven S. Cliff*, (United States District Court, Eastern District of California, Fresno Division, Case No. 1:22-at-904, (2) *Western States Petroleum Association v. California Air Resources Board, et al.*, (Fresno County Superior Court, Case No. 22CECG03603 and (3) *Diamond Alternate Energy, LLC, et. al., v. EPA, et. al.*, Nos. 24-7, 24-13. Are you aware of any other pending appeals of the California rules at issue in this rulemaking?
8. Is the California Air Resources Board in the process of revising the Clean Car and Truck Standards in any way? If the California Air Resources Board is revising the standards, how would such revisions affect other States undertaking a rulemaking to adopt those standards?

**Questions Directed to Dr. Peter Orris**

9. Your testimony provides a summary of health impacts of air pollution from motor vehicles, with a focus on low-income populations and communities of color.
  - a. Please comment on whether you have studied how these impacts are affected by the potential implementation of the new federal vehicle emission standards promulgated in 2024 (89 Fed. Reg. 27842).

- b. If so, please comment on whether the early (MY 2027) implementation of the federal standards would also have a significant impact on mitigation of health effects described in your testimony.

**Questions Directed to Dr. Daniel Horton**

- 10. On page 6 of your testimony, your modeling shows that hotspots of NO<sub>2</sub> and PM<sub>2.5</sub> in the Chicago metropolitan area are concentrated along major roadways.
  - a. Please clarify whether these hot spots also correspond to areas of low-income communities and communities of color.
  - b. Also, please comment on whether there is a significant overlap between areas of low-income communities and communities of color in the Chicago metropolitan areas.
- 11. On page 7 of your testimony, you describe high spatial resolution air quality modeling of 30 percent transition of diesel HDVs to electric HDVs. Your testimony states that you found significant decreases in NO<sub>2</sub> and fine PM<sub>2.5</sub> but slight increase in ozone. Considering the transition to electric HDVs would also decrease VOM emissions (ozone precursor), please comment on why the modeling indicated increase in ozone concentration.

**Questions Directed to Tom Cackette**

- 12. On page 5 of your testimony, you state that EV sales growth is projected to exceed 50 percent nationwide by 2030 absent new regulations.
  - a. Please comment on whether this projected increase is mainly due to federal tax incentives for consumers.
  - b. Do you expect light duty EV sales growth in Illinois to keep up with the national projection without new regulations?
- 13. On page 6 of your testimony, you state that new regulations in Germany increased ZEV sales by 20 percent in two years. Please describe the key elements of the German regulations, including any mandates to increase the percentage of EVs similar to the proposed rules in R24-17 as well as any governmental incentives such as tax credits.
- 14. On page 6 of your testimony, you note that vehicle cost is a critical consideration and up-front purchase price of EVs are expected to be cheaper than gas powered vehicles by MY 2027. Further you state that EV owners are expected to save money over the life of the vehicle due to their significant fuel and maintenance savings. Considering these factors, do you believe the proposed ACC rule will have any negative impact on Illinois residents purchasing MY 2028 advanced clean cars in terms of the price paid at the dealerships?

15. At page 60 of the Statement of Reasons, the proponents refer to CARB’s agreement with reservation to harmonize the Low NO<sub>x</sub> rule with USEPA’s Clean Truck Program finalized in January 2023. SR at 60. Proponents state that “CARB has yet to take any action to align the LOW NO<sub>x</sub> rules with [US]EPA’s Clean Truck Program. Mr. Cackette’s pre-filed testimony at page 17 reports that CARB “does not plan to issue a rulemaking notice until the third quarter of 2025. If CARB does take action, Rule Proponents intend to update this proposal.” SR at 60.

Based on Mr. Cackette’s testimony on this expected action in the third quarter of 2025, how and when do proponents intend to update this proposal?

### **Questions directed at Brian Urbaszewski**

16. On pages 19 through 22 of your testimony, you testify as to why the ACC II and ACT rules are feasible and equitable. As part of your analyses, please comment on whether you considered the impact of transitioning from gas-powered vehicles to EVs on the State’s fuel tax revenue and the Motor Fuel Tax Fund, which is generally used for construction and maintenance of the State’s roadways.
17. On page 20 of your testimony, you note that an increase of new ZEVs will eventually lead to an increase in availability of used ZEVs in the market. Please comment on the availability of federal or state incentives for purchase of used ZEVs.
18. On page 21 of your testimony, you note savings to Illinois electricity customers based on a study by the Citizens Utility Board that “researched the impact of EV ownership on electricity prices under a scenario where EV owners practiced optimized charging.”
  - a. Are you aware of any current or planned programs for educating EV owners on the optimal times to charge their vehicle? If so, please submit pertinent information on such programs into the record.
  - b. Also on page 21, you note that optimized charging “assumes all EV charging occurs between 12 AM and 6AM.” Please comment on the savings that might be projected if EV charging does not take place entirely within that six-hour period.

### **Questions on Proposed Part 242**

#### **Section 242.101**

1. Subsection (b) specifies that Part 242 is applicable to “new motor vehicle engines.” Also, Section 242.102 defines a “heavy-duty engine”. What are the other types of engines that are regulated under Part 242? Please comment on whether they should be defined in the proposed rules.

Also, subsection (b) refers to Section 242.101(e), but this proposed section does not include a subsection (e). Please comment in whether this should instead refer to the proposed exemption under Section 242.105(e) or any other proposed provision.

Also, where subsection (b) refers to simply to “engines,” please comment on whether it should it refer to “heavy-duty engine” to match the proposed definition of that term, or whether there is another revision that may clarify that reference.

2. Please clarify whether subsection (d) applies only to the “motor vehicles of the United States and its agencies” that are registered in Illinois. If so, revise the proposed language to reflect the proposed intent.

### **Section 242.102**

3. The definition of “Financial assistance program” specifies that Qualifying programs in Illinois “will be” approved by the Agency and posted on the Agency’s designated website. Please clarify whether the Agency’s approval is based on any statutory regulatory requirements. If so, please provide citations to the applicable statutes. If not, explain the bases for the Agency’s approval.

### **Section 242.104**

4. This section specifies that the proposed prohibition is subject “to an applicable exemption”. Please clarify whether the prohibition is subject to exemptions under Section 242.105. If so, revise the rule to reflect the intent. If not, please explain the proposed intent.
5. Please clarify whether the various citations to the California Code in this section refers to the Sections of the Code incorporated by reference in Section 242.103 with a specific “Section Amended Date”. If so, would it be acceptable if the phrase “incorporated by reference at Section 242.103” is added to the last sentence after Section 2065. If so, similar additions must be made throughout the proposed rules where California Code is cited to note that the rule is incorporated by reference.

### **Section 242.111**

6. Please clarify whether subsection (a) must include manufacturers of “medium duty vehicles”.
7. Should subsection (b) include manufacturers of “medium-duty passenger vehicles”?

### **Section 242.113**

8. In subsection (a), please clarify whether determining compliance with “this regulation” means compliance with Part 242, Subpart B, or with Section 242.113 or subsection (a).

### **Section 242.130**

9. Subsection (a) specifies emission standards for “new heavy-duty diesel-cycle and Otto-cycle engines used in heavy-duty vehicles.” Please clarify if these engines fall under the definition of “Heavy-Duty Engine” under Section 242.102. If so, comment on whether that definition should be revised to include diesel and Otto-cycle engines.

### **Section 242.131**

10. In subsection (b), please clarify whether the phrase “requirements incorporated herein by reference” means the requirements incorporated by reference under Section 242.103. If so, please revise the language in subsection (b) to reflect the proposed intent.

Also, subsection (c) refers to “an order of enforcement action under Section 242.133(a),” but the proposed Part does not include a Section 242.133. Please comment whether this should refer to proposed Section 242.131(a) or with any other revision clarifying this cross-reference.

### **Section 242.145**

11. Under subsection (b), for purposes of the penalties provision of Section 42 of the Act, “the number of noncompliant, violating vehicles shall be equal to one half of the manufacturer’s outstanding deficit.” Please comment on the specific penalty provision of Section 42 under which this calculation would apply and on the basis for proposing the ratio of one-half of the outstanding deficit.