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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R2024-017
PROPOSED CLEAN CAR AND TRUCK STANDARDS	)	(Rulemaking – Air)
	)	

NOTICE OF FILING

TO:

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Please take notice that I have today filed with the Illinois Pollution Control Board the following documents: Rule Proponents' Response in Opposition to Motion for Extension of Time to File and Motion for Leave to File Motion for Reconsideration and Certificate of Service, a copy of which is served upon you.

Date: July 15, 2025 Respectfully submitted,

Electronic Filing: Received, Clerk's Office 07/15/2025

____

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R2024-017
PROPOSED CLEAN CAR AND TRUCK STANDARDS	)	(Rulemaking – Air)

RULE PROPONENTS' RESPONSE IN OPPOSITION TO MOTION FOR EXTENSION OF TIME TO FILE AND MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION

I. Introduction

Chicago Environmental Justice Network, Respiratory Health Association, Center for Neighborhood Technology, Environmental Defense Fund, Natural Resources Defense Council, and Sierra Club, (collectively, "Rule Proponents") urge the Board to deny the Motion for Extension of Time and Motion for Leave to File Motion for Reconsideration (hereafter, "Motion") filed by the Illinois Fuel & Retail Association, Illinois Environmental Regulatory Group, Illinois Trucking Association, Mid-West Truckers Association, and Illinois Auto Dealers Association, (collectively, "Movants") on July 1, 2025. The Motion should be denied because it is a procedurally improper attempt to reopen a completed proceeding based on fundamental misstatements of federal law

Ten months after the Board's deadline for motions to dismiss, eight months after the Board denied those motions and affirmed its statutory authority to consider the Proposed Rules, and after the submission of thousands of pages of testimony and public comment, Movants now ask the Board to revisit the motion to dismiss phase. Collectively, the Advanced Clean Cars II ("ACC II"), Advanced Clean Trucks ("ACT"), and the Low-NOx Rule, (together, "Proposed Rules"), address the harmful effects of vehicle tailpipe emissions on public health in Illinois, particularly in environmental justice neighborhoods where many of Rule Proponents' members live, work, and breathe. In its November 7, 2024 Order denying prior motions to dismiss filed by two parties, the Indiana, Illinois, Iowa, Foundation for Fair Contracting, and the Illinois Fuel & Retail Association, the Board "readily determine[d]" it had authority to adopt the Proposed Rules under Section 10 of the Environmental Protection Act. *In the Matter of: Proposed Clean Car and Truck Standards: Proposed 35 Ill. Adm. Code 242*, Order of the Board, at 6 (Nov. 7, 2024) (hereinafter "Order Denying Motions to Dismiss"). Neither the Indiana, Illinois, Iowa, Foundation for Fair Contracting nor the Illinois Fuel & Retail Association sought reconsideration of the Board's Order at that time. In the Order Denying Motions to Dismiss, the Board held that the federal Clean Air Act ("CAA") did not constrain it as a threshold legal matter and

specifically instructed participants to address any purported limitations from the CAA in their testimony and public comment. Order Denying Motions to Dismiss at 7.

The Motion is premised entirely on Movants' misreading of the impact of recent acts of Congress purporting to revoke, via the Congressional Review Act, the CAA waivers granted to California by the U.S. Environmental Protection Agency ("U.S. EPA") for the Proposed Rules. Motion ¶ 8. Those Congressional Review Act measures, however, even if assumed valid, could, at most, prevent only the future enforcement of the Proposed Rules in states that have or will adopt them. It is well-established and noncontroversial that U.S. EPA waivers are not a prerequisite to a state's *adoption* of California's standards—they are only a prerequisite to their *enforcement.* Every federal court to consider the question has soundly rejected Movants' reading of the CAA. Even if the Board were to entertain the substance of Movants' proposed Motion for Reconsideration, labeled as Exhibit 1, the Motion based on such arguments should be easily rejected for the reasons discussed below in Parts III and IV.[1]

But the Board need not reach those issues because the Motion fails on threshold grounds. As explained in Part II, the Motion seeks leave to raise legal questions that are already addressed in the existing record before the Board and that could have been raised by Movants eight months ago. Though styled as a request to file a belated motion for "reconsideration," the actual relief requested in the Motion is radically broader: Movants ask to re-open this year-long, nearly-complete administrative process that has culminated in a fulsome record awaiting Board action so that *any* person could file brand-new motions to dismiss. Movants do not and cannot identify "good cause" to justify such relief, and the Board should therefore deny the Motion on that basis alone.

II. The Motion Is Improper as a Request for Reconsideration Because it Actually Requests Far Broader Relief and Lacks Good Cause.

The Motion asks that the Board "extend the deadline for filing a motion for reconsideration" of the Board's November 7, 2024, Order Denying the Motions to Dismiss "until August 15, 2025," and characterizes the filings it would permit as "allow[ing] '[a]ny person' to 'file a motion challenging the statutory authority or sufficiency of the proposal." Motion ¶ 11. Board rules permit motions for extensions only if the party seeking an extension "shows good cause." 35 Ill. Adm. Code 101.522.[2]

The Board should deny the Motion for two reasons. First, the Motion is improper because it does not merely seek reconsideration—it attempts a full do-over of the motion to dismiss phase, more than eight months after the Board resolved it. And second, it fails to show good

[1] At most, the Board should treat the Motion and the reconsideration argument set out at Movants' Exhibit 1, as a late-filed comment and afford it only whatever consideration is appropriate for untimely comment submissions.

[2] Of the Movants here, only the Illinois Fuel & Retail Association joined the Motion to Dismiss filed on September 3, 2024, and that party chose not to participate in the remainder of the Board's process, either through filing testimony or public comment.

cause for any of the relief it seeks. Movants' purported "new law that is the basis of the request for reconsideration," Motion ¶ 10, does not, in fact, introduce new legal issues. Even if it were properly raised now, the argument Movants seek leave to make is inapplicable to the Board's standard for motions to dismiss rulemaking petitions, was available to Movants during the first motion to dismiss briefing period, and is already before the Board in testimony and comments.

A. The Motion Is a Procedurally Improper Attempt to Reopen the Entire Proceeding.

As a threshold matter, the Motion goes well beyond reconsideration and should be denied on that basis alone. Although styled as a request for leave to file a motion for reconsideration, it in fact seeks to relitigate the motion to dismiss phase—more than eight months after the Board resolved it. Paragraph 11 expressly asks the Board to "allow 'any person' to 'file a motion challenging the statutory authority or sufficiency of the proposal'" by August 15, 2025. Motion ¶ 11.

This request is improper for several reasons. First, Movants cannot, as a practical matter, show good cause to reopen briefing on behalf of unidentified and unlimited parties or to provide for another month for whatever parties to draft entirely new motions to dismiss. Indeed, Movants make no effort whatsoever to explain the bases for those open-ended and dilatory aspects of their request. Second, the request is incompatible with reconsideration, which necessarily concerns a previously filed motion. Although Movants purport to seek an extension of the reconsideration deadline, the relief they request would instead establish a new deadline for motions to dismiss. That disconnect violates Board rules, which require that "[a]ll motions and responses must state the grounds upon which the motion is made." 35 Ill. Adm. Code 101.504. A single, firm deadline for motions to dismiss was set in September of 2024. *Hearing Officer Order* (Aug. 13, 2024). Movants have not—and cannot—offer a compelling justification for reopening that deadline or allowing entirely new motions to dismiss by "[a]ny person," in this fully briefed and completed proceeding.

B. Movants' Arguments Fail to Show "Good Cause" to Reopen a Decision the Board Made Eight Months Ago.

The purported justification for the Motion—stated in a single sentence—also fails the "good cause" standard and does not justify reopening the deadline for reconsideration of the Board's decision made eight months ago to reject the previously-filed motions to dismiss. The Motion asserts that "the exception to federal preemption which is the basis of this entire rulemaking has now been eliminated by Congress." Motion ¶ 8. Movants' position is that the unlawful Congressional Review Act resolution announcing that previously-granted U.S. EPA waivers for the Proposed Rules "have no force or effect" means that the Proposed Rules are ineligible for adoption in Illinois because no "waiver has been granted" for them at this time. Motion ¶¶ 9, 11.

Even if the Congressional Review Act resolution to which the Motion refers were lawful and likely to survive an already-filed constitutional challenge—which, as explained below, it is not—it would still not represent new information justifying reopening the motion to dismiss phase. The developments at the federal level to which the Motion points (1) do not relate to the substantive standard the Board applied in denying the Motions to Dismiss; (2) do not change the material facts as they were when the Board denied the Motions to Dismiss—a time when two of the three Proposed Rules lacked a federal waiver; and (3) have already been fully addressed in the testimony and public comments before the Board now.

First, the arguments offered by Movants do not relate to the Board's standard for motions to dismiss rulemaking petitions. Board Rule 102.212(c), cited as the standard in the Board's denial of the Motions to Dismiss, directs dismissal only if the Board "cannot determine the statutory authority on which the proposal is made." 35 Ill. Adm. Code 102.212(c); Order Denying Motions to Dismiss at 4. Movants' arguments, even if they were valid, would not change "the statutory authority on which the proposal is made." As the Board already found, the Board's authority to promulgate the Proposed Rules here is its state rulemaking authority under the Illinois Environmental Protection Act. *See* Order Denying Motions to Dismiss at 6 ("Having reviewed the Proponent's proposal and Statement of Reasons, the Board can readily determine that the proposal is made on the Board's authority under Section 10 of the Act."). Because the "reconsideration" Movants seek has nothing to do with the relevant legal question posed by the previously-filed motions to dismiss, there is no "good cause" to reopen the Board's Denial of the Motions to Dismiss.

Second, Movants' legal argument—that the purported absence of a CAA waiver from U.S. EPA precludes not only enforcement but also adoption of the Proposed Rules—was also available to Movants at the time one of them joined the initial Motion to Dismiss. As Movants acknowledge, it was not until January 2025 that U.S. EPA granted CAA waivers for two of the three Proposed Rules—the Advanced Clean Cars II and Low-NOx Rules. Motion at ¶ 10. That came *after* Illinois Fuel & Retail Association filed its Motion to Dismiss, after the Board denied that motion and affirmed its legal authority, and after the deadline to seek reconsideration had passed. During the entirety of the motion to dismiss phase, the status of two of the Proposed Rules with respect to CAA waivers was the same as Movants claim it is now: no waiver for those rules was in "effect." There is no "good cause" for the Board to reconsider its Order Denying the Motions to Dismiss where Movants seek to belatedly raise a legal argument that was available to them during their initial, unsuccessful briefing and the proper period to request reconsideration.

Third, in denying the Motions to Dismiss, the Board considered arguments related to conditions imposed by the CAA and held that while "these conditions may be the subject of testimony and comment, the Board is not convinced that they require granting the motions to dismiss." Order Denying Motions to Dismiss at 7. And indeed, the Board currently has before it testimony and public comment that address whether and how the erratic and unlawful federal actions during the current presidential administration bear on this rulemaking generally, and on

the precise legal question regarding the Congressional Review Act and CAA waivers that is advanced in Movants' proposed Motion for Reconsideration. Of particular note, two of the Movants have already addressed "Federal Legislative Actions" related to the waivers, "Legal Threats" to the waivers, and "Uncertainty Surrounding the California Waiver" in comments and responses to pre-filed questions.[3] As such, there is no "good cause" to reopen motions to dismiss to account for an unlawful and unconstitutional action at the federal level that is already addressed by the "testimony and comment" timely submitted to the Board by parties and public commenters that followed Board instructions. Indeed, further undermining any claim to "good cause," the very party that filed the Motion—Illinois Fuel & Retail Association—chose not to participate at all in the months of "testimony and comment" that followed the Board's Order Denying the Motions to Dismiss, despite the Board's specific instruction to raise federal CAA requirements in that format.[4]

III. The Status of the Waivers Has No Impact on the Board's Authority to Adopt the Proposed Rules.

Even if it considered the merits of the Motion for Reconsideration (Exhibit 1 to the Motion), the Board must reject the Motion because Movant's legal premise is incorrect as a matter of law. Movants cite no law supporting their preferred interpretation of the CAA, and every federal court to consider the issue has squarely rejected Movants' position. Section 177 of the federal CAA authorizes states like Illinois to "adopt and enforce" motor vehicle emission standards that are "identical to the California standards for which a waiver has been granted" by U.S. EPA. 42 U.S.C. § 7507(1). That authority, requiring waivers be in place only when the state is in a position to both adopt ***and*** enforce the relevant California standards, is unaffected by recent unlawful attempts to invalidate waivers for the Proposed Rules through the Congressional Review Act ("CRA").

Movants nevertheless argue—using the CRA actions as little more than pretext—that Section 177 requires a waiver to be in place *before* the Board may even adopt the Proposed Rules, and that the CRA creates new "federal law" prohibiting Illinois "from even adopting, let alone enforcing" these standards. Motion at ¶ 20. But this issue was raised in prior industry

[3] Illinois Trucking Association Comments at 1–2 (P.C. # 660, May 16, 2025), https://pcb.illinois.gov/documents/dsweb/Get/Document-113872; Illinois Automobile Dealers Association Comments at 15–16 (P.C. # 523, Apr. 28, 2025), https://pcb.illinois.gov/documents/dsweb/Get/Document-113644; Illinois Automobile Dealers Association Answers to Pre-Filed Questions at 7–8 (Mar. 3, 2025), https://pcb.illinois.gov/documents/dsweb/Get/Document-112910.

[4] While the Illinois Fuel & Retail Association chose to ignore the Board's direction to participate in "testimony and comment," its counsel did, in fact, submit public comment on behalf of yet another industry group that he represents, further confirming that the Motion represents inappropriate sandbagging that the Board should not countenance. *See* https://pcb.illinois.gov/Cases/GetCaseDetailsById?caseId=17556 (PCB docket page reflecting that P.C. #519 was an electronic filing of "Comments submitted by Alec Messina on behalf of Illinois Chamber of Commerce.").

comments and directly addressed by Rule Proponents in the record.[5] Movants cite no authority supporting their preferred reading of the CAA, and their position flatly contradicts well-established federal court interpretations of Section 177. For example, the Second Circuit held that the "most sensible" reading of Section 177 is that a U.S. EPA waiver is a precondition to enforcement, not adoption, of California standards. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. N.Y. State Dep't of Env't Conservation*, 17 F.3d 521, 533–34 (2d Cir. 1994) ("*MVMA* '94"). Likewise, the District of Massachusetts rejected Movants' reading, explaining that requiring states to wait for U.S. EPA's waiver before adopting California standards would "likely … lead to utter chaos." *Am. Auto. Mfrs. Ass'n v. Greenbaum*, Civ. A. No. 93-10799-MA, 1993 WL 443946, at *8 (D. Mass. Oct. 27, 1993), *aff'd*, 31 F.3d 18 (1st Cir. 1994).

Other courts have likewise confirmed that Section 177 allows states to adopt California's standards regardless of U.S. EPA or other federal actions. *See, e.g.*, *Minn. Auto Dealers Ass'n v. Minn. Pollution Control Agency*, 520 F. Supp. 3d 1126, 1137 (D. Minn. 2021) (observing that federal law does not and cannot preempt a rulemaking proceeding to adopt California's vehicle standards); *Ford Motor Co. v. EPA*, 606 F.2d 1293, 1298 (D.C. Cir. 1979) (no requirement that U.S. EPA "conduct a separate waiver proceeding for each state" adopting California standards); *Virginia v. EPA*, 108 F.3d 1397, 1412 (D.C. Cir. 1997) (states have "independent authority," meaning power that is "free[] from the dictates of a federal agency," to adopt California's standards, and U.S. EPA cannot "take[] this choice from the states.").

Movants cite no case adopting their construction of Section 177 in the nearly fifty years since Congress enacted it—and Rule Proponents are unaware of any. Nor would Illinois be an outlier in adopting the Proposed Rules without a waiver in place. Twelve other states and the District of Columbia adopted the Advanced Clean Cars II rule before the U.S. EPA had issued a waiver.[6] In addition, litigation over waivers is not uncommon. During the first Trump Administration, EPA purported to withdraw the waiver for the Advanced Clean Cars I program, an action challenged by many states and public interest organizations. As explained in prior comments, during that period of pending litigation, every Section 177 state maintained its standards, and two additional states—Colorado and Minnesota—moved forward with adoption to safeguard against rollbacks of federal standards.[7] Illinois should do the same here and now.

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[5] Rule Proponents' Responsive Comments, at 9, 36–37 (May 16, 2025), https://pcb.illinois.gov/documents/dsweb/Get/Document-113865 (responding to post-hearing comments of IEPA, American Fuel and Petrochemical Manufacturers, and Illinois Corn Growers Association), Statement of Reasons, at 17–18 (May 27, 2024), https://pcb.illinois.gov/documents/dsweb/Get/Document-110497, Joint Testimony of Kathy Harris and Muhammed Patel, at 214–15 (May 27, 2024), https://pcb.illinois.gov/documents/dsweb/Get/Document-110497.

[6] Statement of Reasons, at 18 (May 27, 2024), https://pcb.illinois.gov/documents/dsweb/Get/Document-110497.

[7] Rule Proponents' Responsive Comments, at 9 (May 16, 2025) https://pcb.illinois.gov/documents/dsweb/Get/Document-113865.

Movants offer no textual basis for their reading—nor do they attempt to explain how every court to address Section 177 has misread it. Section 177's "adopt and enforce" language must be read with context and common sense. For example, a procedural rule might require a party to "file and serve a file-stamped brief," but this would not be reasonably understood to require the brief to be file-stamped *before* it is filed. Similarly, Section 177 establishes a prerequisite to enforcement of California standards, not to the first step of their adoption.[8]

Practically speaking, Movants' reading would upend CAA implementation. U.S. EPA waiver decisions often take a year or more—sometimes several years—making it impossible for states to both adopt standards two years before the applicable model year and wait until after U.S. EPA grants a waiver. *See, e.g.*, 68 Fed. Reg. 19,811 (Apr. 22, 2003) (granting waiver approximately two years after California submitted its May 2001 request); 88 Fed. Reg. 88,908 (Dec. 26, 2023) (noting that California sent its ACC II waiver request in May 2023 (U.S. EPA granted the waiver in December 2024)). *Compare* 57 Fed. Reg. 755, 901–910 (Jan. 9, 1992) (stating that California submitted request in October 1991), *with* 59 Fed. Reg. 48,625–03 (Sept. 22, 1994) (granting waiver several years later).

As discussed in public comments submitted in this docket by Earthjustice, the Board has also already recognized its authority to adopt California standards without a waiver currently in effect, consistent with the caselaw and plain reading of the statutory text described above. "In 1991, on its own motion, the Board considered adopting California's … standards in the absence of a waiver," and despite ultimately deciding not to adopt those standards, concluded "'that the state may adopt the California standards 'at any time' if it 'decides that further emission reductions are necessary.'"[9] And in its Order Denying Motions to Dismiss in this proceeding, the Board reiterated that it is "not persuaded that the requirements of the CAA require dismissing the proposal at this stage." Order Denying Motions to Dismiss, at 7 (Nov. 7, 2024). The Board should deny the Motion because it need not reject the argument advanced by the Motion for Reconsideration for a third time.

In short, Movants' interpretation has no basis in law or practicality. The Board's authority to adopt these Rules is independent of federal waiver status and remains fully intact. As

[8] This reading aligns with the federal CAA's mobile source provisions as a whole. Section 209(b) creates a mechanism for California to seek a waiver *after* adopting standards. 42 U.S.C. § 7543(b). Section 177 likewise contemplates that other states may adopt California standards concurrently with California. *See id.* § 7507(2) (states may enforce standards if "California and such State adopt such standards at least two years before commencement of such model year"). Reading these provisions together, the settled view is the correct one: Section 177 is satisfied provided "(1) an opt-in state … adopt[s] standards that are identical to California's; (2) California … receive[s] a waiver from the EPA for the standards; and (3) both California and the opt-in state … adopt the standards at least two years before the beginning of the automobile model year to which they apply." *MVMA* '94, 17 F.3d at 527.

[9] Earthjustice Comments at 2, P.C. #521 (Apr. 28, 2025) https://pcb.illinois.gov/documents/dsweb/Get/Document-113641 (quoting Dismissal Order, *Application of California Motor Vehicle Control Program in Illinois*, R 89-17(C), slip op. at 7 (Jan. 7, 1993)).

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established by legal precedent and longstanding practice, a valid waiver is a precondition to enforcement—not adoption—of California standards. The status of the waivers at the federal level has no bearing on the Board's "independent authority" to adopt the Proposed Rules as a matter of state law. *Virginia v. EPA*, 108 F.3d 1397, 1412 (D.C. Cir. 1997).

IV. Federal Actions Purporting to Invalidate California's Waivers Are Unlawful.

Not only should the Board reject the Motion because the purported invalidations of California's waivers are irrelevant to the Board's authority to adopt the Proposed Rules, but the Board need not reopen briefing to consider the Congressional Review Act resolutions because they are manifestly unlawful. The Board can adopt the Proposed Rules with confidence that by the time enforcement begins in Model Year 2029, federal courts will have confirmed that the purported waiver invalidations have no legal effect.[10] Indeed, eleven states have already filed a lawsuit challenging the purported invalidations. *California v. United States*, Complaint for Declaratory and Injunctive Relief (N.D. Cal. No. 4:25-cv-004966, filed June 12, 2025) (hereinafter "*California v. United States* Complaint").

As set forth in the states' complaint in that action, and in Earthjustice's comments that are already before the Board in this proceeding, the CRA cannot lawfully be applied to invalidate EPA's approval of the California waivers. *Id.*[11] This is because the Congressional Review Act applies only to federal "rules" as defined at 5 U.S.C. § 804(3), and the waiver approvals clearly do not meet this definition. The definition includes, in relevant part, "an agency statement of … future effect designed to implement, interpret, or prescribe law or policy." *Id.* §§ 551(4), 804(3).

As EPA, the Government Accountability Office, and the Senate Parliamentarian have consistently concluded based on settled case law, waiver approvals are not rules but adjudicatory orders, defined in relevant part as "a final disposition … of an agency in a matter other than rule making but including licensing." 5 U.S.C. § 551(6); *California v. United States* Complaint ¶¶ 63–70, 78–84, 89–92.[12] Licensing includes granting "an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission." 5 U.S.C. § 551(8), (9).[13] A waiver approval is an adjudicatory order because it grants California a "form

[10] In any case, adopting the Proposed Rules is a no-regrets option. Even if the waiver invalidations were determined to have legal effect, Illinois would simply be unable to enforce the Proposed Rules. This would leave the state no worse off than if it had not adopted them. There is no downside to adopting the Proposed Rules even in that worst case, and the most likely outcome is that Illinois will realize an enormous upside for air quality, equity, health, decarbonization, and economic growth.

[11] Earthjustice Comments, P.C. #521 (Apr. 28, 2025) https://pcb.illinois.gov/documents/dsweb/Get/Document-113641.

[12] *Id.* at Attachment 2, Letter from Edda Emmanuelli Perez, General Counsel, U.S. Government Accountability Office to Congressional Requesters, at 7 (Mar. 6, 2025) ("[R]ules and orders are 'mutually exclusive.'" (internal citation omitted))

[13] To get their farcical CRA resolutions adopted, federal officials and members of Congress committed numerous blatant procedural violations, from reversing course without any explanation or public process after U.S. EPA had determined that the same three waiver approvals were orders instead of rules, to flouting and circumventing the GAO and Parliamentarian's rulings. *California v. United States* Complaint ¶¶ 71–77, 85–88, 93–113.

of permission" pursuant to the exemption from preemption set forth in CAA Section 209(b) through a "case-specific, individual determination of a particular set of facts that has immediate effect on the individual(s) involved."[14]

This is not just a matter of semantics. The federal actions hijacking the Congressional Review Act process and unlawfully claiming to invalidate the waivers fly in the face of bedrock principles of federalism, separation of powers, and the rule of law. These principles are reflected in the compromise struck through the CAA waiver provisions, which balance federal uniformity with states' autonomy, as well as the Congressional Review Act, which provides for expedited review of *federal rules* while promising not to encroach on state authority. *California v. United States* Complaint ¶¶ 1–2, 6–9, 12, 33–40, 52, 57–61, 144–178.

V. Conclusion

The Board can and should quickly reject Movants' Motion. The Motion seeks relief far broader—and more disruptive—than its title suggests, based on legal arguments Movants could have raised eight months ago and that have already been fully addressed in the record. Movants have failed to demonstrate the "good cause" necessary for the Board to grant the Motion, and it should be denied.

Even if it were to consider the substance of the Motion for Reconsideration (Exhibit 1 to the Motion), the argument there fails, further confirming that the Board should deny the Motion readily for failing the "good cause" standard. Federal courts have uniformly rejected Movants' unfounded interpretation of the federal CAA. In the absence of effective U.S. EPA waivers, Section 177 precludes states like Illinois only from enforcing—not from adopting—the Proposed Rules. Adopting the Proposed Rules now will begin the two-year lead-in timeline required under Section 177 and best position Illinois to protect the health of its citizens. This process would allow those two years to run while federal courts confirm that the unlawful Congressional Review Act resolutions do not invalidate the waivers. This approach best protects Illinois residents and creates no significant downsides for the state in the unlikely event that the resolutions are ultimately upheld.

For the reasons set out above, Rule Proponents respectfully request that the Board deny the Motion, decline to reconsider its November 7, 2024 Order Denying the Motions to Dismiss, and proceed expeditiously to adopt each of the Proposed Rules.

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[14] Earthjustice Comments, Attachment 2 at 7, P.C. #521 (Apr. 28, 2025) https://pcb.illinois.gov/documents/dsweb/Get/Document-113641. Moreover, even if the waiver approvals were not adjudicatory orders, they would be "rules of particular applicability," to which the CRA cannot be applied, because they apply to the specific circumstances of a particular entity: the State of California. *Id.*; 5 U.S.C. § 804(3)(a).

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Respectfully submitted,

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: PROPOSED CLEAN CAR AND TRUCK STANDARDS	))))))	R2024-017 (Rulemaking – Air)

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation state the following:

That I have served the attached Notice of Filing; Rule Proponents' Response in Opposition to Motion for Extension of Time to File and Motion for Leave to File Motion for Reconsideration; and Certificate of Service, by e-mail upon the following individuals listed at the e-mail addresses indicated:

TO:

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That my e-mail address is robert.weinstock@law.northwestern.edu.
That the number of pages in the e-mail transmission is 16.
That the e-mail transmission took place before 5:00 p.m. on the date of July 15, 2025.

Date: July 15, 2025

Respectfully submitted,

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