

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN MATTER OF:)	
)	
)	R 25-17
AMENDMENTS TO 35 ILL. ADMIN. CODE)	(Rulemaking-Air)
217, NITROGEN OXIDES EMISSIONS)	

NOTICE OF FILING

TO: Persons on Attached Service List

PLEASE TAKE NOTICE THAT on Thursday, September 19, 2024, I caused to be electronically filed with the Clerk of the Illinois Pollution Control Board, via the “COOL” System, the Illinois Attorney General’s Questions for Participants Testifying at the First Hearing on behalf of the Illinois Attorney General’s Office, for the People of the State of Illinois, true and correct copies of which are attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
of the State of Illinois

By: /s/ Jason E. James
Assistant Attorney General
Office of the Illinois Attorney General
Environmental Bureau
201 West Point Drive, Suite 7
Belleville, IL 62226
(217) 843-0322
Jason.James@ilag.gov

SERVICE LIST

Don Brown
Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren, Suite 630
Chicago, IL 60605
Don.Brown@illinois.gov
(Via Electronic Filing)

Dana Vetterhoffer
Deputy General Counsel
Gina Roccaforte
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Dana.Vetterhoffer@illinois.gov
Gina.Roccaforte@illinois.gov

Renee Snow
Illinois Department of Natural Resources
Office of General Counsel
One Natural Resources Way
Springfield, IL 62702
Renee.Snow@illinois.gov

Daniel Pauley
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren, Suite 630
Chicago, IL 60605
Daniel.Pauley@illinois.gov

CERTIFICATE OF SERVICE

I, Jason E. James, an Assistant Attorney General, caused to be served on Thursday, September 19, 2024, a true and correct copy of Illinois Attorney General's Questions for Participants Testifying at the First Hearing on behalf of the Illinois Attorney General's Office, for the People of the State of Illinois, true and correct copies of which are attached hereto and hereby served upon the persons listed on the Service List via electronic mail or electronic filing, as indicated.

/s/ Jason E. James

Jason E. James

Assistant Attorney General

Office of the Illinois Attorney General

Environmental Bureau

201 West Point Drive, Suite 7

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**Illinois Attorney General's Questions for the
Illinois Environmental Protection Agency**

The Illinois Attorney General's Office, on behalf of the People of Illinois ("People"), submits the following questions for the Illinois Environmental Protection Agency's ("IEPA") in advance of the September 26, 2024 hearing Reasonably Available Control Technology ("RACT") requirements for incorporation in Illinois' State Implementation Plan ("SIP") submittal to the U.S. Environmental Protection Agency ("USEPA").

I. NO_x RACT Regulations

1. IEPA's technical support document states that "[t]he current proposed revisions are intended to satisfy relevant SIP obligations. To this end, the proposal addresses issues raised by] USEPA regarding the State's current RACT rules and updates various aspects of the rules to reflect what is currently considered RACT." R25-17, IEPA Initial Filing—Technical Support Document ("TSD") at 1 (July 8, 2024).

IEPA specifies several ways that its proposed regulatory provisions would satisfy Illinois' SIP obligations and modify unapprovable SIP provisions. For instance, "the proposed amendments address these issues and include reducing compliance periods from an ozone season and annual basis to a 30-day rolling average basis" TSD at 3.

Do the proposal changes to Illinois regulations satisfy SIP obligations in other ways that are not specified in the TSD? If so, please expand on how those provisions would operate.

II. Environmental Justice Considerations

2. IEPA identifies several counties as part of the Chicago and Metro-East NAAs. TSD at 1-2. Are any of these counties listed below, or parts of them, considered areas of environmental justice concern? If so, how would emissions reductions from the proposed rules affect these environmental justice communities?

a. Chicago NAA:

i. Cook, DuPage, Kane, Lake, McHenry, and Will Counties

- ii. Aux Sable, Goose Lake townships in Grundy County
- iii. Oswego township in Kendall County

b. Metro East NAA:

- i. Madison, Monroe, and St. Clair Counties

- 3. What are the potential health impacts of exposure to NO_x emissions on the people living in the non-attainment areas?
- 4. IEPA indicated that although it has not quantified anticipated reductions, it does anticipate that there will be NO_x emission reductions in both NAAs. TSD at 3. Will these anticipated reductions reduce any concerns about health impacts?
- 5. What environmental justice considerations did IEPA take into account when designing the new regulations?

III. Good Neighbor Federal Implementation Plan

- 6. IEPA states that the “State of Illinois is not a party to the underlying [Good Neighbor] litigation and did not seek or receive a stay.” R25-17, IEPA Initial Filing—Statement of Reasons (“SR”) at 10.

Does this statement reflect that the Illinois Attorney General’s Office is representing the State of Illinois before U.S. Court of Appeals for the D.C. Circuit, the Supreme Court of the United States, other federal courts, and in regulatory proceedings in matters related to the Good Neighbor Federal Implementation Plan?¹

- 7. On August 5, 2024, USEPA issued a memorandum outlining how it intends to comply with the U.S. Supreme Court’s order staying the Good Neighbor Plan pending completion of judicial review. USEPA, *Policy Concerning U.S. Supreme Court Grant of Applications to Stay* (Aug. 5, 2024), available at <https://www.epa.gov/system/files/documents/2024-08/gnp-stay-policy-memo-08-05-2024-signed.pdf>.

Does anything in this memorandum affect IEPA’s proposed regulations in this Pollution Control Board rulemaking docket?

- 8. Does anything in the U.S. Supreme Court’s decision cited by IEPA (SR at fn. 2), any other court ruling concerning the Good Neighbor Plan, or any USEPA Good Neighbor

¹ See, e.g., Brief for Respondents Illinois, *et al.*, *Ohio v. EPA*, No. 23A349 (U.S. Sup. Ct. Oct. 30, 2023), available at https://www.supremecourt.gov/DocketPDF/23/23A349/288395/20231030154012598_Response%20NY%20et%20al%20Opposition%20to%20Stay%20Applications.pdf.

regulation do anything to reduce the Board's authority to adopt air pollution regulations in Illinois that are more stringent than the minimum requirements set by USEPA?

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
of the State of Illinois

By: /s/ Jason E. James

Jason E. James

Assistant Attorney General

Caitlin Kelly

Assistant Attorney General

Mallory Meade

Assistant Attorney General

Office of the Illinois Attorney General

Environmental Bureau

201 West Point Drive, Suite 7

Belleville, IL 62226

(217) 843-0322

Jason.James@ilag.gov