BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
PROPOSED CLEAN CAR AND TRUCK STANDARDS	)	R2024-017 (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' Responsive Comment and Certificate of Service, a copy of which is served upon you.

Date: May 16, 2025

Respectfully submitted,

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RULE PROPONENTS' RESPONSIVE COMMENT

Pursuant to the May 2, 2025, Hearing Officer Order in this matter, Chicago Environmental Justice Network ("CEJN"), Respiratory Health Association ("RHA"), Center for Neighborhood Technology ("CNT"), Environmental Defense Fund ("EDF"), Natural Resources Defense Council ("NRDC"), and Sierra Club, (collectively, "Rule Proponents") submit the following response to post-hearing comments.[1]

I. Introduction

In January 1971, just five months after its founding, the first chair of this Board issued a report "in order that people may judge for themselves to what extent we have been doing our job."[2] On the very first page, he identified "motor vehicles" as a primary source of Illinois' "air pollution problem."[3] More than fifty years later, this Board now has the opportunity to make history by finally addressing that long-recognized threat.

Protecting the people of Illinois from vehicle pollution is no small task, and some uncertainty is inevitable—but the time for bold action is now. As the Board makes its decision, it should bear in mind the Governor's recent warning that "for far too long we've been guilty of listening to a bunch of do-nothing political types who would tell us that America's house is not on fire, even as the flames are licking their faces."[4]

The petition before the Board presents two fundamental questions: (1) Do emissions from on-road vehicles in Illinois harm public health or pose "air-pollution hazard[s]," thereby triggering the Board's rulemaking authority?[5] And, if so, (2) what action should the Board take in response?

The answer to the first question is unequivocally yes—indeed, far more so today than in 1971. The record in this matter demonstrates that emissions from on-road vehicles are now the leading source of climate pollution in Illinois, and that harmful air pollution from vehicles contributes to hundreds of premature deaths and thousands of illnesses every year. Diesel exhaust alone causes an estimated 416 premature deaths, over 24,000 lost workdays, and $4.6

[1] Throughout this comment, Rule Proponents cite to the page number of the specific document. Where multiple documents were submitted with consecutive pagination, citations appear "at PDF [page number]" for clarity.
[2] David P. Currie, *The Pollution Control Board: A First Report* (Jan. 6, 1971), https://pcb.illinois.gov/documents/dsweb/Get/Document-102504.
[3] *Id.* at 1.
[4] Lisa Lerer & Reid Epstein, *Pritzker Thunders Against 'Do Nothing' Democrats as He Stokes 2028 Talk*, N.Y. Times (Apr. 27, 2025), https://www.nytimes.com/2025/04/27/us/politics/jb-pritzker-2028-new-hampshire-trump-democrats.html (*hereinafter* "Lerer & Epstein").
[5] 415 ILCS 5/10(A) (2024). As addressed below, the Board also has broad authority under Section (10)(A) to promulgate rules that further the purposes of the Environmental Protection Act.

billion in annual exposure costs in Illinois[6]—impacts that fall most heavily on already overburdened communities disproportionately affected by air pollution.

To address this harm, Rule Proponents have offered a clear answer to the second question: The Board should adopt the Advanced Clean Cars II ("ACC II"), Advanced Clean Trucks ("ACT"), and Heavy-Duty Low NOx Omnibus ("Low NOx") rules (together, the "Proposed Rules"). The record supports these Proposed Rules as feasible, effective, and capable of delivering up to $83.5 billion in net benefits through 2050, including health benefits like reduced childhood asthma and enormous savings on fuel and maintenance for Illinois families.[7]

The Proposed Rules squarely advance the Board's mission to "restore, protect, and enhance the quality of the environment"[8] by sharply reducing climate pollution and shielding Illinois residents from dangerous "air pollution hazards." That's why more than 1,000 Illinoisans signed a petition in support of the rules, over 400 submitted written comments, and 80 people took time to deliver public testimony—many of them living with chronic illness or facing environmental injustice firsthand. Among them were doctors, nurses, students, teachers, rural community members, and even a double-lung transplant survivor.[9]

It is therefore deeply disappointing that the Illinois Environmental Protection Agency ("IEPA") has chosen to oppose these rules. IEPA's position exemplifies the very "simpering timidity"[10] the Governor recently condemned—and stands in stark contrast to his leadership on climate. Rather than acknowledge the broad public support or the twin health and climate crises driving calls for Board action, IEPA's 60 pages of post-hearing comments recycle unsupported industry claims and distort federal and state law in a misguided call for inaction in the face of a hostile federal administration. The Board should reject IEPA's approach—it undermines the Illinois Environmental Protection Act's purpose and ignores the urgency of the moment.

In the sections that follow, Rule Proponents respond to post-hearing comments urging the Board to reject or delay adoption of the Proposed Rules. Most of the issues raised in these comments have already been thoroughly addressed over the course of this year-long proceeding. Many do not implicate the core justifications for adopting the Proposed Rules. These responsive comments therefore address certain key issues raised in post-hearing comments, in part by referring to the sections of the record where those issues are discussed in full.

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[6] Hr. 1, Ex. 1, at 10.
[7] Hr. 1, Ex. 7, at 3–4.
[8] *Mission Statement*, Illinois Pollution Control Board (last visited May 15, 2025). https://pcb.illinois.gov/AboutIPCB/MissionStatement. *Accord* R24-17, Order of the Board at 4–5 (Nov. 27, 2024) (*hereinafter* "Order of the Board").
[9] *See* Hr. 1, Ex. 1, at 251–257; R24-17PC, Docket (Nov. 11, 2024–May 16, 2025); Hr. Tr. at 89–151 (Dec. 2, 2024); Hr. Tr. at 169–236 (Mar. 10, 2025); Hr. Tr. at 74–177 (Mar. 11, 2025).
[10] Lerer & Epstein, *supra* note 4.

Section II responds to IEPA's core claims: that the Board lacks authority to act and should do nothing unless expressly directed by the General Assembly. These arguments fail on both legal and logical grounds.

Section III addresses claims about federal uncertainty, which have no impact on the Board's clear authority to act. The prudent course is to adopt the rules now, triggering the two-year lead time for implementation. During this time the Board, General Assembly, state agencies and other stakeholders can respond to any future legal or market developments.

Sections IV through VI respond to rule-specific objections and reaffirm the strong record demonstrating that each individual rule is feasible, necessary, and cost-beneficial—countering the misplaced and inaccurate claims raised by opponents.

Finally, **Appendix A** to this comment responds to IEPA's minor critiques of the rule language—some offer reasonable refinements to non-core provisions, while others misunderstand the rule and do not warrant changes.

This proceeding gives the Board a pivotal chance to use its authority to protect Illinoisans from dangerous air pollution and climate threats. While it cannot control politics in Washington or elsewhere, such uncertainties demand action—not acquiescence or delay. Adopting the Proposed Rules now positions Illinois to defend its residents, preserves flexibility for future adjustments, leaves room for legislative input, and poses no downside if later federal actions impact the rules. Inaction, by contrast, prolongs preventable harms and unnecessary suffering to people throughout the State. The Board should act decisively.

II. The Board Should Reject Both IEPA's Policy Preference for Inaction and the Agency's Retread of Unworkable Statutory Arguments.

Across 63 pages of comments, IEPA fails to raise any valid procedural or substantive objections to the proposed rules.[11] Instead, IEPA's primary policy stance is that the Board should not adopt the rules unless explicitly directed by the General Assembly.[12] This preference does not negate the Board's clear authority to address vehicle pollution impacts, and IEPA does not dispute the core facts that justify the Board's exercise of that authority here: vehicle tailpipe emissions cause widespread, measurable harm—especially to environmental justice communities near highways and freight centers; adopting the proposed rules falls squarely within the Board's statutory mandate to protect public health and welfare; and the rules would phase in standards for manufacturers over time in an ambitious yet achievable way. Most of IEPA's submission merely echoes arguments advanced by industry opponents of the proposed rules. Where relevant, those claims are addressed in subsequent, rule-specific sections below.

[11] Post-Hearing Comment of IEPA (P.C. #520) (Apr. 28, 2025) (*hereinafter* "IEPA Comment").
[12] *Id*. at 1–47.

A. The Board Should Not Defer Action to the General Assembly.

IEPA fails to acknowledge the environmental and public health crises of climate change and deadly vehicle tailpipe emissions. Instead, IEPA requests the Board take no action until further legislative direction, because, IEPA asserts, the General Assembly can better: solicit input from the Secretary of State, the Illinois Commerce Commission, and the grid operators Midcontinent Independent System Operator ("MISO") and PJM Interconnection ("PJM");[13] solicit expertise on economic considerations and implement funding solutions;[14] evaluate the feasibility of the proposed rules;[15] and take into account uncertainty caused by a change in Presidential administrations.[16] None of these assertions preclude the Board from adopting the Proposed Rules, and Board action to promulgate the Proposed Rules would not stop the General Assembly from doing any of these things.

Indeed, IEPA has it exactly backwards: this Board process is the best means—and the means created by the General Assembly—to engage stakeholders to tackle complex environmental problems. The Board's rulemaking process ensures broad participation and careful consideration of all relevant interests, and that is exactly what has occurred here.[17] At each step in this process, the Board has followed the necessary procedure to solicit input from across the state, including soliciting input from the Illinois Department of Commerce and Economic Opportunity, holding the requisite hearings and publishing advanced notice in geographically diverse newspapers, and there is no evidence that any interested party has been denied a meaningful opportunity to participate. The Board process requires notice, opportunities for comment, and the opportunity for opponents of the rules to cross examine Rule Proponent experts.[18] And indeed, the next step in the rulemaking process that the General Assembly designed is legislative input through the Joint Committee on Administrative Rulemaking.[19] The General Assembly has no equivalent required procedures.

[13] *Id*. at 10–18.
[14] *Id*. at 19–25.
[15] *Id*. at 25–32.
[16] *Id*. at 33–47.
[17] Indeed, IEPA's own example of how other states have promulgated some of the Proposed Rules—Nevada—demonstrates that the Board process here has provided for the same sort policy assessment and refinement as elsewhere. *Id.* at 61. In Nevada, just as here before the Board, an administrative agency convened a process with multiple opportunities for written and live feedback. Nevada's process went from proposal to final promulgation in less than 11 months. *Id.* And other states that have adopted the Proposed Rules have similarly used their standard administrative rulemaking procedures to do so, just as the Board did in its consideration of adopting prior California rules previously. *See* Rule Proponents' Response in Opposition to Motions to Dismiss (Sept. 30, 2024), at 21 n.10 (detailing Colorado and New Jersey processes), *see also* Sierra Club, *Clean Vehicle Programs: State Tracker*, https://www.sierraclub.org/transportation/clean-vehicle-programs-state-tracker, (*hereinafter* "Clean Vehicle State Tracker") (providing links to other states' adoption of Proposed Rules, most of which described explicitly as the outcome of administrative rulemaking proceedings).
[18] 35 Ill. Admin. Code § 102.400 *et seq.*
[19] 35 Ill. Admin. Code § 102.606.

While IEPA questions whether that the Illinois Secretary of State's office is capable of implementing the requisite registration protocols to effectuate the proposed rules,[20] this is a phantom concern. The Office of the Secretary of State, including General Counsel Pamela Wright, is on the Service list for this proceeding and fully capable of addressing any concerns the Secretary of State may have about implementing the proposed rules, including legal questions regarding the Board's authority. These legal and technical issues were thoroughly answered by Rule Proponents over four months ago,[21] and the Secretary of State has neither opposed the Proposed Rules nor expressed doubts about its ability to manage the necessary vehicle registrations, which would not begin until at least two years after a Board decision.

IEPA similarly expresses concern over grid impacts and consultation with regional grid operators MISO and PJM;[22] however, neither has engaged in the Board's process despite ample public notice. There is no evidence they view the phased increase of electric vehicles starting in 2029 as an insurmountable challenge—especially since Illinois is ranked number one for grid reliability by U.S. News & World Report.[23] The real parties-in-interest from a grid perspective are the distribution utilities. Far from questioning the feasibility of the Proposal, ComEd has offered *supportive* post-hearing public comments indicating that investments, upgrades, and strategies from the utility companies—in particular, the Beneficial Electrification ("BE") plans mandated under the Climate and Equitable Jobs Act ("CEJA")—will "ensure the Proposed Rules can be implemented successfully" and will do so with statutory mandates around ensuring both grid stability and equity.[24] *See infra* Parts IV.C. and V.C.

IEPA also asserts that the General Assembly is better suited to "assess the economic impacts" of the proposed rules without offering any explanation as to why, in its view, that is true.[25] IEPA does not identify any relevant economic concern not addressed by the participants in this docket, nor does IEPA challenge the top-line results of ERM's analysis. Instead, IEPA critiques ERM's methodology—a concern addressed in Section IV.A.—and points to motor fuel taxes as a reason the rules should be deferred to the General Assembly. There is no dispute that motor fuel taxes require legislative attention,[26] regardless of whether these rules are adopted. But

[20] IEPA Comment at 13–17.
[21] Hr. 1, Exh. 1, at 11–24.
[22] IEPA Comment at 18.
[23] Hr. 1, Exh. 14, at PDF 21 n.22 (underlined page numbers).
[24] Post-Hearing Comment of Scott Vogt on behalf of Commonwealth Edison (P.C. #527) at 4 (Apr. 28, 2025) (*hereinafter* "ComEd Comment").
[25] IEPA Comment at 19–25.
[26] *Id.* at 19–21. The Indiana, Illinois, Iowa Foundation for Fair Contracting ("IIIFFC") submitted its own comment on May 5, 2025, well after the April 28, 2025 deadline for post-hearing comments set by the hearing officer in this case. *See* Post-Hearing Comment of IIIFFC (P.C. #569) (May 5, 2025). The Board should ignore IIIFFC's post-hearing comment as filed out of time. But even if considered, the comment offers nothing new to the discussion, as Rule Proponents and IIIFFC agree that the State's current motor fuel tax system is inadequate to keep up with increasing fuel efficiency of ICE vehicles and consumer adoption of EVs. IIIFFC does not address Rule Proponents' motor fuel tax policy solution and, like IEPA, IIIFC's post-hearing comments merely cites Ms. Tyler's pre-filed testimony. *Id.*

the need to address that separate issue in the General Assembly has no bearing on the Board's clear authority—or its responsibility—to act in this proceeding.

IEPA next asserts that the General Assembly is better equipped to assess the feasibility of the proposed rules, but, as with other issues, it fails to explain why the General Assembly would be better able to assess the legal and technical aspects of the proposed rules.[27] IEPA points to arguments raised by rule opponents regarding compliance credits, consumer demand, charging infrastructure, and compliance timelines. But, as explained below in Sections IV., V., and VI., Rule Proponents have presented a thorough record that demonstrates the rules, both individually and collectively, set ambitious and achievable sales requirements that manufacturers can readily meet and will deliver important air quality and public health benefits to the people of Illinois.

Finally, IEPA addresses at length potential issues raised by a change in Presidential administrations, arguing once again that the General Assembly should determine Illinois' state rulemaking response in light of uncertainty at the federal level.[28] As explained in detail below in Section III, Illinois has clear authority to adopt the rules now in order to protect its citizens. Because the Clean Air Act ("CAA") requires a two-year lead time between adoption and implementation, Illinois should not wait to adopt the rules until courts have resolved any uncertainty caused by new federal policies. The prudent course is to adopt the rules now so that Illinois is prepared to implement the rules as soon as possible in order to secure the climate and public health benefits of the rules for Illinois residents.

B. The Board Has Already Found Section 10 of the Environmental Protection Act Empowers It to Promulgate the Proposed Rules, and IEPA's Statutory Interpretation Arguments are Both Retread and Wrong.

IEPA argues—incorrectly—that the Proposed Rules exceed the Board's authority under the Environmental Protection Act ("the Act").[29] According to IEPA, the Board may not regulate vehicle sales under Section 10(A)(d) of the Act without first making an individualized finding that each "vehicle itself" constitutes an "air-pollution hazard."[30] IEPA further contends that this strained interpretation gives rise to an "implicit" restriction that overrides the broad rulemaking authority the Act expressly confers.[31] IEPA's argument fails for several independent reasons.

First, IEPA conspicuously ignores the Board's prior ruling in this docket, in which it held that it "can readily determine that the proposal is made on the Board's authority under Section 10 of the Act."[32] IEPA's failure to address the Board's decision—made in this docket, directly on

[27] IEPA Comment at 25–32.
[28] *Id.* at 33–47.
[29] *Id.* at 47.
[30] *Id.* at 52.
[31] *Id.*
[32] R24-17, Order of the Board at 6.

this point, just over six months ago—or to offer any explanation as to why that Order is incorrect as a matter of law, is reason enough to disregard IEPA's argument.

Second, by narrowly focusing on Section 10(A)(d) of the Act, IEPA overlooks the broader rulemaking authority granted to the Board under Section 10(A).[33] As the Board explained in denying motions to dismiss by the Illinois Fuel & Retail Association and the Indiana, Illinois, Iowa Foundation for Fair Contracting, Section 10(A) grants the Board broad authority to "adopt regulations to promote the purposes of this Title,"—namely, 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."[34] In drafting the Act, the General Assembly made clear that the six rulemaking types listed in Subsections (a)–(f) of Section 10(A) are merely illustrative, and do not "limit the generality of [the Board's] authority" to adopt regulations that advance the Act's purposes.[35] IEPA itself concedes that the six categories in Section 10(A) are not exclusive,[36] and makes no argument that the proposed rules would fail to meet the Act's stated purpose to "enhance the purity of the air of this State in order to protect health, welfare, property, and the quality of life"[37] under Section 10(A). The Board can end its analysis there.

Third, though the Board need not reach IEPA's strained interpretation of Section 10(A)(d) of the Act, it can readily reject it. Section 10(A)(d) authorizes the Board to "prescribe … standards and conditions regarding the sale, offer, or use of any fuel, vehicle, or other article determined by the Board to constitute an air-pollution hazard."[38] IEPA contends this provision requires an individualized "air-pollution hazard" finding for each vehicle before regulation is permissible, drawing a dubious distinction between "the vehicle itself" and the emissions it produces.[39] Indeed, IEPA's argument about hybrid vehicles ("PHEVs") illustrates the absurdity of its interpretation of the Act, which has no limiting principle and would require the Board to evaluate every vehicle type or model individually before taking regulatory action. Moreover, IEPA's policy preference for promoting PHEVs is both already accommodated in ACC II—which allows PHEVs to generate compliance credits in all model years[40]—and directly contradicted by the General Assembly's express preference for ZEVs over PHEVs.[41]

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[33] 415 ILCS 5/10 (2024).
[34] R24-17, Order of the Board at 4–5 (citing 415 ILCS 5/10(A) and 415 ILCS 5/8 (2022)).
[35] 415 ILCS 5/10(A).
[36] IEPA Comment at 48 (recognizing "the six categories of regulations set out in Section 10(A) are not the only kinds of air pollution regulations that the Board may adopt.").
[37] 415 ILCS 5/8 (2022).
[38] 415 ILCS 5/10(A)(d).
[39] IEPA Comment at 51.
[40] *See* 13 Cal. Code Regs., Title 1962.4(e), incorporated by reference in Sections 242.103 and 123(a) of Rule Proponents' proposed regulatory text.
[41] *See* 415 ILCS 120/10 (amended by CEJA, Public Law 102-0662, to redefine "Electric vehicles" to specifically exclude "hybrid electric vehicles…that are also equipped with conventional fueled propulsion," that had been covered by the previous definition of "electric vehicle").

Even setting aside the unworkability of the Agency's interpretation, IEPA goes further—claiming that its narrow construction of subsection (d) creates an "implicit" limitation that overrides the Board's general rulemaking authority under Section 10(A).[42] That argument fails. Section 10(A) expressly forecloses implied limits on the Board's authority, and its clear language controls.[43] The Board must reject the constraint IEPA urges it to infer from a strained reading of a single subsection, especially when contradicted by the statute's plain text. As the Illinois Supreme Court has made clear, statutes may not be rewritten to impose limitations that the legislature did not express.[44]

Finally, although IEPA's statutory argument fails on its own terms, it is especially telling that the Agency makes no serious effort to apply its narrow reading of the Act to either the ACT or Low NOx rules. IEPA's analysis fixates almost entirely on ACC II and light-duty vehicles, basing its objection on ZEV sales targets that appear only in ACC II[45]—not in ACT, which imposes no 100% ZEV mandate in any weight class, and not in Low NOx, which sets performance-based emission standards for new heavy-duty diesel engines and contains no ZEV requirements. In short, while IEPA offers a flawed statutory argument against ACC II, it offers no argument at all that would call into question the Board's clear authority—let alone its statutory obligation—under Section 10(d) to regulate emissions from medium- and heavy-duty vehicles as an "air-pollution hazard."

For all these reasons, the Board should reject IEPA's unsupported interpretation and act on its clear authority to adopt the Proposed Rules.

III. The Board Has Authority to Adopt the Proposed Rules Under Federal Law, and Uncertainty Regarding Federal Standards Only Reinforces the Need for Timely Action.

Just as the Board's authority under state law is clear, its authority under federal law to adopt the proposed rules is equally beyond dispute. Speculative objections—whether about potential future rule changes, ongoing litigation, or possible actions by Congress or the Executive—have no bearing on that authority. Moreover, in the face of uncertainty over federal emissions standards, the prudent course is to adopt the proposed rules to protect Illinois residents and sustain momentum toward the state's climate and air quality goals.

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[42] *Id.* at 52.
[43] 415 ILCS 5/10(A).
[44] *People v. Laubscher*, 183 Ill. 2d 330, 337 (1998) ("Where an enactment is clear and unambiguous, this court is not at liberty to read into it exceptions, limitations, or conditions that the legislature did not express; nor should this court search for any subtle or not readily apparent intention of the legislature.").
[45] IEPA Comment at 47–52.

Section 177 of the federal Clean Air Act authorizes states like Illinois to adopt and enforce new motor vehicle emission standards that "are identical to the California standards for which a waiver has been granted" by U.S. EPA.[46] Each of the rules proposed here is identical to California's current, final regulatory text in all material respects, and U.S. EPA has issued a waiver for each of the proposed rules.[47] Even so, a waiver is only a precondition to enforcement, not adoption.[48] As such, the status of the waivers has no impact on the Board's authority to adopt the rules, which is solely a matter of federal and state law. Because the Board's authority is well established, and the proposed rules meet the identicality requirement, it is fully empowered to adopt them.

Despite there being no question about the Board's authority to act under Section 177, IEPA concludes that the proper course is inaction based on the "possibility that the second Trump Administration's USEPA will withdraw California's CAA waivers."[49] Yet, as IEPA must acknowledge, its concerns are speculative, and are unlikely to be definitively resolved anytime soon. What is certain—and should guide the Board's decision—is that there is a two-year lead time before the proposed rules, if adopted, could be enforced. Given that, delayed action is extremely costly, and has no corresponding benefit. The reasonable course is to adopt the rules and start the lead-time clock so that Illinois may seek to enforce them no later than model year 2029. This lead-time is designed precisely to allow the coordination among state agencies, regulated parties, and stakeholders that IEPA mistakenly insists must occur before adoption.

The American Fuel and Petrochemical Manufacturers and the Illinois Corn Growers Association also urge the Board to reject the rules based on speculation about unresolved litigation and potential future actions by Congress or the new administration.[50] But the Board must act based on current law—not hypotheticals. That's especially true where the theorized actions are unlikely to succeed. As detailed in Earthjustice's comments, any effort to revoke existing waivers through administrative rulemaking or via the Congressional Review Act would be unlawful and trigger extended litigation, as occurred during the previous Trump Administration.[51] In that period of uncertainty, every Section 177 state maintained its standards, and two additional states—Colorado and Minnesota—moved forward with adoption to safeguard against federal rollbacks.[52] The same course is warranted here.

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[46] 42 U.S.C. § 7507.
[47] *See* Hr. 2, Exh. 1, at 2–10; 90 Fed. Reg. 642 (Jan. 6, 2025) (granting California's petition for a waiver of preemption for Advanced Clean Cars II); 88 Fed. Reg. 20688 (Apr. 6, 2023) granting California's petition for a waiver of preemption for Advanced Clean Trucks); 90 Fed. Reg. 643 (Jan. 6, 2025) (granting California's petition for a waiver of preemption for the Low NOx rule).
[48] *See Motor Vehicle Mfrs. Ass'n of U.S. v. N.Y. Dep't of Env't Conservation*, 17 F.3d 521, 534 (2d Cir. 1994).
[49] IEPA Comment at 47.
[50] Post-Hearing Comment of American Fuel and Petrochemical Manufacturers (P.C. #558) at 7–9 (Apr. 28, 2025) (*hereinafter* "AFPM Comment"); Corn Growers Comment at 22–23.
[51] Post-Hearing Comments of Earthjustice (P.C. #521) at 3–5 (Apr. 28, 2025) (*hereinafter* "Earthjustice Comment").
[52] *Id.*

In addition, American Fuel and Petrochemical Manufacturers and Illinois Corn Growers Association raise a series of conclusory legal claims, many of which appear copied from ongoing litigation against the rules and U.S. EPA waivers.[53] These arguments have not prevailed in court, and there is no need for the Board to entertain them here, where the relevant legal framework is settled, and the issues are properly before other tribunals. American Fuel and Petrochemical Manufacturers' suggestion that the Board must wait on the outcome of ten separate legal challenges[54]—many brought by the association or its members—is not a legitimate justification for delay.

Concerns raised by the Truck and Engine Manufacturers Association and the Illinois Corn Growers Association about potential California Air Resources Board ("CARB") amendments to ACT and Low NOx likewise pose no threat to identicality or the Board's authority.[55] None of the cited rule changes are final; some have not even been proposed, and others do not apply to the model years at issue in this proceeding. Even if some relevant changes were finalized, unless and until EPA grants a new waiver for a new final rule containing those amendments, the rules proposed here will remain "identical to the California standards for which a waiver has been granted."[56] And, as detailed below in Section VI.B, the only significant CARB amendment potentially relevant here—harmonization of the Low NOx Rule with federal standards—has not yet been proposed by CARB and is now highly uncertain in light of U.S. EPA's current deregulatory posture.[57]

The Truck and Engine Manufacturers Association also mischaracterizes the scope of the identicality requirement. States are not required to adopt "any and all [rule] amendments" CARB may make.[58] Rather, they retain discretion to adopt or decline future changes once CARB finalizes those amendments and obtains a new EPA waiver. In addition, the identicality requirement under Section 177 applies on a model-year basis.[59] A state may therefore adopt California's standards for only certain model years, provided the standards are identical for each of those years.[60]

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[53] AFPM Comment at 2–4; Corn Growers Comment at 24–30.
[54] AFPM Comment at 7–8.
[55] Post-Hearing Comments of the Truck and Engine Manufacturers Association (P.C. #516) at 2, 4–5 (Apr. 28, 2025) (*hereinafter* "EMA Comment"); Corn Growers Comment at 20–22.
[56] *See* 42 U.S.C. § 7507.
[57] *See, e.g.*, *EPA Launches Biggest Deregulatory Action in U.S. History*, U.S. EPA (Mar. 12, 2025), https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history.
[58] EMA Comment at 3.
[59] *See* 42 U.S.C. § 7507 (permitting states to adopt standards "identical to the California standards for which a waiver has been granted *for such model year*") (emphasis added).
[60] *See, e.g.*, New Mexico Environmental Improvement Board, Statement of Reasons and Final Order for Adoption of Amendments to 20.2.91 NMAC (issued Dec. 6, 2023), https://www.env nm.gov/opf/wp-content /uploads/sites/13/2023/12/2023-12-06-EIB-23-56-Stmt-of-Reasons-and-Final-Order-pj.pdf (adopting ACC II, ACT and HDO for model years 2027 to 2032).

The Board's authority under Section 177 is clear, and it must act based on the facts and law before it. Speculation about future rule changes, litigation, or federal actions is no justification to deny or delay adoption of the Proposed Rules. Delay would jeopardize Illinois' ability to enforce the standards starting in model year 2029 and risk forfeiting essential progress on climate and air quality. Moreover, the threat of weakened federal standards only underscores the urgency of adopting the proposed rules. Given its clear authority and statutory duty to reduce emissions, the Board should adopt the Proposed Rules without delay.

IV. The Board Should Adopt ACC II.

Post-hearing comments overwhelmingly support adoption of ACC II. IEPA and other commenters raised concerns about adopting ACC II in Illinois, such as feasibility, vehicle costs, and needed charging infrastructure. As this section explains in detail, those comments do not undermine the case for adopting ACC II, which is a feasible rule that will protect public health and provide billions in net economic benefit to Illinois.

A. Environmental and Public Health Benefits.

Adopting ACC II will accelerate adoption of ZEVs in Illinois, creating enormous air quality, health, and climate benefits for the state. These benefits, detailed in hundreds of pages of testimony and supporting scientific literature, include up to 185 avoided premature deaths, 186 avoided hospitalizations, and over 100,000 avoided cases of illness, restricted activity, or lost workdays due to respiratory issues.[61] This has a monetized value of up to $2.6 billion in health benefits and up to $16 billion in climate benefits.[62] ACC II will also significantly reduce vehicles' contribution to ozone and $PM_{2.5}$ concentrations, which is essential for attaining federal air quality standards throughout Illinois.[63] Dozens of public comments show what these health benefits mean for the lives of Illinoisans, from spending more time outdoors, to worrying less about children and grandchildren suffering asthma attacks, to literally life and death.[64]

No party seriously disputes that successful implementation of ACC II will produce major health and environmental benefits. Every witness who filed testimony opposing ACC II admitted that they had no basis for disputing ERM's assessment of these benefits.[65] Most opponents' testimony and comments, including IEPA's post-hearing comments, do not even address the

[61] Hr. 1, Exh. 1, at 151, 22–33, 35–36. *See, e.g.*, Hr. 1, Exh. 7, at 5–9; Hr. 1, Exh. 10, at 28–37; Hr. 1, Exh. 17, at 104–12; Hr. 1, Exh. 19, at 130–52. The Corn Growers Association notes that emission benefits may be somewhat lower if Illinois' grid decarbonizes more slowly than required under state law and if manufacturers make use of the rules' compliance flexibilities. Corn Growers Comment at 11–12. Rule Proponents have included analysis of scenarios that begin implementation in model year 2029 that reflect these possibilities, noting that regardless of which scenario is used, the rule's environmental and net economic benefits are massive. Hr. 1, Exh. 1, at 35–36 n.143; Hr. 1, Exh. 7, at 7–8.

[62] Hr. 1, Exh. 7, at 7; Hr. 1, Exh. 1, at 151.

[63] Hr. 1, Exh. 1, at 28–33.

[64] *See, e.g.*, Hr. Tr. at 96–99 (Dec. 2, 2024) (statement of Peimer); Comment of Cynthia Durnbaugh (P.C. #8) (Nov. 11, 2024); Hr. Tr. at 178–181 (Mar. 10, 2025) (statement of Tripathy).

[65] *See* Hr. Tr. at 20:5–21:22, 142:24–145:2, 352:14–15, 390:10–23 (Mar. 10, 2025) (statements of Douglas, Stieren and Doll, Hart, and Wells, respectively); Hr. Tr. at 37:15–22 (Mar. 11, 2025) (statement of Tyler).

rule's environmental or health benefits.[66] The few ACC II opponents who do address these benefits either wrongly assume ineffective implementation of the rule, or quibble with details of ERM's analysis that do not undermine its finding of overwhelming environmental benefits.[67]

First, opponents predict irrational market responses to ACC II to suggest the rule might not deliver projected emission benefits.[68] They claim automakers will drastically reduce overall vehicle sales to comply with ACC II, rather than increase the number of ZEVs they sell. But there is no reason to believe automakers would pursue this novel compliance strategy, which, as the auto industry's own witness explained, runs counter to their business interest in selling more vehicles, not fewer.[69] As CARB recently noted in a fact sheet dispelling this and other misleading industry talking points, no individual car manufacturer has publicly claimed it will limit overall vehicle sales in response to ACC II.[70] No party in this proceeding has identified any automaker who has made such a claim, or any example of automakers cutting sales in response to any previous emission standard.[71]

Similarly, there is no support for Illinois Auto Dealers Association's ("IADA's") claim that consumers will "evade" ACC II by purchasing non-compliant vehicles in other states and

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[66] IEPA Comment at 19. IEPA briefly criticizes Rule Proponents for "concentrat[ing] on public health and economic benefits rather than on adverse economic impacts," but otherwise does not mention the proposed rules' air quality and health benefits or use the term "climate change." *Id*. Rule Proponents holistically analyzed economic costs and benefits, as discussed in Section IV.B below.

[67] Alliance for Automotive Innovation witness Steven Douglas also made the facially-absurd claim that ACC II will not produce any environmental benefits beyond federal emission standards. Hr. 2, Exh. 6, at 12, 14. This claim ignores the ZEV sales requirement, which is the primary driver of emission reductions under ACC II and which far outweighs the effect of ACC II's somewhat less stringent fleetwide emission standards. *See* Hr. Tr. at 21:22–22:15, 25:12–16, 29:13–20, 31:1–12 (Mar. 10, 2025) (statements of Douglas). Additionally, the Corn Growers claim that ACC II could stymie the growth of ethanol, which they claim can reduce emissions. Corn Growers Comment at 31. ACC II does nothing to prevent the use of ethanol in the combustion vehicles that remain on the road, and the comparatively minimal emission reductions achievable through the Corn Growers' undeveloped ethanol proposal should not prevent the Board from pursuing ACC II's massive emission reductions. The Corn Growers claim that ethanol use could reduce emissions by up to 29 million tons per year throughout the whole country, which is significantly less than the nearly 34 million tons per year that could be avoided *in Illinois alone* under ACC II. *See* Hr. 1, Exh. 1, at 145.

[68] IEPA Comment at 29; Post-Hearing Comment of Illinois Automobile Dealers Association (P.C. # 523) at 11 (Apr. 28, 2025) (*hereinafter* "IADA Comment"). IEPA quotes Rule Proponent witness Muhammed Patel's acknowledgement at hearing that automakers could *theoretically* comply by reducing sales, but offers no indication that this is likely to occur—and tellingly IEPA omits Mr. Patel's testimony that he had seen no evidence that vehicle manufacturers would choose to sell fewer ICE vehicles, and thus bring in less profit, as a means to comply with the rules. Hr. Tr. at 159:22–24 (Dec. 2, 2024) (statement of Patel); *see also* Hr. Tr. at 81:9–16 (Dec. 3, 2024) (statement of Cackette) ("Analytically, that's a correct statement [that manufacturers could comply by reducing sales]. I don't believe that's a practical market statement. I don't believe that any of these major manufacturers would purposely decrease the number of sales of non-electric vehicles…").

[69] As IADA witness Doll admitted at hearing, automakers compete for sales, and under ACC II they would face an incentive to sell more ZEVs, generate more ZEV credits, and be able to sell more vehicles overall. Hr. Tr. at 161:13–162:20 (Mar. 10, 2025).

[70] Post-Hearing Comment of Environmental Law and Policy Center (P.C. #525) at 7 (Apr. 28, 2025) (*hereinafter* "ELPC Comment") (*citing The Calibrate Campaign: Misinformation vs. Facts*, CARB (Mar. 2025) https://ww2.arb.ca.gov/sites/default/files /2025-03/CNCDA%20Calibrate%20Campaign%20Fact%20Check_Final_0.pdf).

[71] Hr. Tr. at 62:21–63:2, 66:23–67:24 (Mar. 10, 2025) (statement of Douglas); *id*. at 140:18–24 (statement of Stieren).

registering them in Illinois.[72] The Proposed Rule prohibits registration of noncompliant new vehicles, including those purchased out of state.[73] And, as established above,[74] the Secretary of State has authority to ensure that all registered vehicles comply with all applicable Illinois regulations.[75] Opponents could not point to any examples of consumers having evaded California emission standards in other states.[76] More generally, the Board should not base its evaluation of the proposed rules' air quality impacts on speculation that the rules will be widely violated.

Finally, opponents raise objections to certain details of ERM's health and environmental analysis that come nowhere near to undermining ERM's overall conclusion. For example, the American Petroleum Institute makes the true but irrelevant observation that combustion vehicles have reduced their emissions significantly over time.[77] ERM accounted for combustion vehicles' current emission rates. IADA takes issue with ERM's use of "global social-cost-of-carbon estimates" that are largely felt outside of Illinois.[78] These estimates were developed by the federal government, and they are widely used to evaluate rules like those proposed here—especially by states with climate targets like Illinois.[79] And climate benefits are just one element of ACC II's massive net benefits, which also include tens of billions of dollars in savings for ZEV owners in Illinois.[80] IADA also faults ERM for not addressing emissions associated with EV manufacturing and end-of-life disposal, citing unspecified life-cycle assessments.[81] Like most analyses of vehicle emission policies, ERM appropriately focused on the two most significant sources of transportation-related emissions: tailpipe emissions and upstream emissions from electricity generation. Most importantly, ERM's conclusions are consistent with reams of peer-reviewed articles, reports, and analyses in the record that establish the health and environmental benefits of adopting ACC II.[82]

B. Net Economic Benefits.

ACC II will also create savings for ZEV owners and utility customers, yielding up to $80 billion in cumulative net economic benefits by 2050.[83] Opponents raise various objections to details of ERM's analysis of these net economic benefits, none of which undermine the central conclusion that the rule will produce significant net economic benefits for the people of the state.

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[72] IADA Comment at 18–20.
[73] Hr. 1, Exh. 1, at 237 (language of Proposed Rule Section 242.104).
[74] *See supra* Part II.
[75] *See* Hr. 2, Exh. 1, at 12, 14.
[76] *See, e.g.*, Hr. Tr. at 404:22–405:9 (Mar. 10, 2025) (statement of Wells). This includes Colorado, which was surrounded by states that had not adopted California standards from 2019 until New Mexico adopted ACC I in 2022.
[77] Post-Hearing Comment of American Petroleum Institute (P.C. #470) at 6 (Apr. 24 2025) (*hereinafter* "API Comment").
[78] IADA Comment at 20.
[79] Hr. 1, Exh. 1, at 36, 88, 114.
[80] *See id.* at 147.
[81] IADA Comment at 20. *See also* API Comment at 2; Corn Growers Comment 13–16.
[82] *See* Hr. 1, Exh. 14, at 62 (addressing lifecycle analyses); Hr. 1, Exh. 1 at 22–23, 35–36; Hr. 1, Exh. 10, at 28–37, Hr. 1, Exh. 17, at 104–113; Hr. 1, Exh. 19, at 140–49.
[83] Hr. 1, Exh. 7, at 7; Hr. 1, Exh. 1 at 36–37 (describing components of $80 billion figure).

First, IEPA raises questions about local economic impacts.[84] ERM's analysis does estimate net economic impacts at a national level, both to capture the rules' full impacts and because interconnected effects on the national economy pose challenges for state-specific modeling.[85] However, Rule Proponents' testimony and exhibits detail the rules' expected local economic benefits, including savings for ZEV owners and fewer lost work days from pollution-related health issues.[86] And ACC II has been carefully designed to maximize flexibility and smooth the transition for local businesses and consumers, as discussed in Section IV.C.2 below. Indeed, the rule will yield substantial savings for ZEV owners, especially rural purchasers who drive more and will save more on fuel and maintenance costs.[87]

Based on misreading ERM's analysis, IEPA questions ACC II's job creation benefits, noting that ERM's analysis of net added jobs is nationwide and relatively small in 2050.[88] But net job creation under ACC II reaches a peak of up to 24,000 in 2030, before gradually converging with the baseline level of expected jobs.[89] These added jobs are expected to pay 50% more on average than the jobs they replace. Many of these jobs, such as charging equipment installation, are inherently local, helping ensure economic benefits are felt in Illinois.[90]

IADA claims that ERM uses overly optimistic assumptions about when ZEVs will reach price parity with combustion vehicles.[91] ERM's assumption is supported by multiple rigorous analyses of long-term trends in ZEV component costs.[92] While the details and precise timeline may vary, the steady downward trend in ZEV prices is clear.[93] Opponents base their criticisms on snapshots of current ZEV costs and near-term projections that tell the Board nothing about the market in model year 2029. They offer nothing to refute the long-term downward trends in ZEV costs or the underlying market forces.[94] Nor do they dispute Rule Proponents' analysis of the

[84] IEPA Comment at 23–25.
[85] IADA and the Corn Grower Association take issue with ERM's assumption that "all incremental spending on ZEV batteries and electric drivetrain components would be in the United States." Hr. 1, Exh. 1, at 124. *See* Corn Growers Comment at 9; IADA Comment at 20. ERM's assumption is based on federal policy aimed at spurring domestic investment, and ERM recognizes it represents "a higher-end estimate" of that policy's impact on GDP and job creation. And while GDP and job creation are important, they are separate from ERM's assessment of the rules' net economic impacts. The net economic benefits are driven by the substantial cost savings for ZEV purchasers and the rule's health and climate benefits, none of which depend on where ZEVs or their components are manufactured.
[86] Hr. 1, Exh. 1, at 36–37, 40–41, 48–49.
[87] *Id.* at 40, 117–18.
[88] IEPA Comment at 24–25.
[89] Hr. 1, Exh. 1, at 37, 124.
[90] *Id.* at 123 n.36 ("[I]n-state charging infrastructure is estimated to increase by 1,734 jobs in 2050 under the most aggressive scenario.").
[91] IADA Comment at 20.
[92] Hr. 1, Exh. 1, at 40–41 (*citing* Peter Slowik, et al., *Assessment of Light-duty Electric Vehicle Costs and Consumer Benefits in the United States in the 2022-2035 Timeframe*, (Oct. 2022); Atlas Public Policy, "Comparing the Cost of Owning the Most Popular Vehicles in the United States (Mar. 2024); EDF, *Electric Vehicle Total Cost of Ownership Analysis: Summary Report* (July 2023); Himanshu Saxen et al., *Electrification Cost Evaluation of Light-Duty Vehicles for MY 2030* (2023)); Hr. 1, Exh. 12, at 15–18.
[93] Hr. 1, Exh. 1, at 41–44; Hr. 1, Exh. 12, at 17–18.
[94] *See, e.g.*, Hr. 2, Exh. 7, at 38–39 (admitting testimony did not include any projections of future ZEV costs).

significant savings on fuel and maintenance costs for ZEV owners, which has already resulted in many ZEVs having a lower total cost of ownership than comparable combustion vehicles.[95]

IADA takes issue with ERM's use of a "managed charging scenario," where EV owners charge their EVs when electricity costs are lower.[96] While EV charging will never be fully optimized in all instances, ERM's charging scenario reasonably reflects the growing set of policies and programs designed to incentivize efficient charging, such as CEJA's requirements that utilities' Beneficial Electrification Plans include time-of-use rates and incentivize customers "to use electricity at times of low overall system usage."[97] And ERM's conclusion that ACC II will lead to utility customer savings is supported by Synapse Energy Economics' finding that ZEVs are already reducing electric rates for all customers under real-world charging conditions.[98]

Finally, IEPA and IADA criticize ERM's exclusion of tax revenue impacts from its analysis of the rule's net economic impacts.[99] ERM's approach is consistent with that of many government agencies, which typically do not consider taxes in cost-benefit analyses because they represent a transfer of wealth rather than a net social cost or benefit. Moreover, in response to parties' interest in this issue, Rule Proponents did submit an in-depth analysis of tax revenue impacts from ERM, which is addressed in Section II.A.

C. Feasibly and Affordably.

ACC II was carefully designed for a smooth transition to zero-emitting vehicles, and its implementation will be supported by a robust suite of investments and policies in Illinois. A fair reading of the record in this proceeding addresses opponents' legitimate concerns regarding feasibility and affordability, and they should not stop the Board from adopting the rules.

1. Consumer Demand and Pace of Adoption

ACC II opponents express concern that Illinois is not currently on track to meet the pace of ZEV adoption required under the rule.[100] To be sure, ACC II requires an ambitious level of ZEV adoption commensurate with Illinois' climate and air quality objectives. But Rule

[95] Hr. 1, Exh. 1, at 40–41; Hr. 1, Exh. 12, at 15–16; Hr. 2, Exh. 7, at 5 ("Nevertheless, when considering the [total cost of ownership] … EVs can be competitive with or even cheaper than gas-fueled vehicles.").
[96] IADA Comment at 20–21.
[97] 20 ILCS 627/45(b) (2024) (requiring utilities implement "time of use electric rates" for ZEV charging). These requirements have been implemented in ComEd and Ameren's approved BE Plans. *See* Post-Hearing Comment of Brian Urbaszewski (P.C. #559) at 5 (Apr. 28, 2025) (*hereinafter* "Urbaszewski Comment". *See also* Hr. 1, Exh. 20, at 138–140 (Nov. 18, 2024).
[98] Hr. 1, Exh. 19, at 151; Hr. 1, Exh. 8, at 94 ("Synapse analysis shows that in Illinois, each EV currently on the system delivered a net benefit between $80 and $160 from 2011–2021.").
[99] IEPA Comment at 19; IADA Comment at 20–21. IADA also argues that evasion of the rule through out-of-state purchases will reduce sales tax revenue. There is no basis for the claim that customers will evade the rule, as discussed in Section IV.A above.
[100] IEPA Comment at 26–28; *see* IADA Comment at 2–11; API Comment at 5; Corn Growers Comment at 3–5. IEPA fixates on how the pace of adoption is expressed as a percent, contrasting the annual increase of roughly 10% cited at one point by Rule Proponents with a year-over-year increase of 100% from current levels. These figures simply use different denominators. The first expresses the annual increase as a percentage of total vehicle sales. The second expresses the increase as a percentage of current ZEV sales.

Proponents have demonstrated that this level of ambition is achievable, especially in light of the compliance flexibilities, declining ZEV costs, and complementary policies and investments discussed below.[101] Several countries and U.S. states have achieved a pace of ZEV sales growth comparable to the pace that would be required under ACC II.[102] And as ZEVs rapidly approach upfront cost parity with combustion vehicles, the ZEV market will likely reach a tipping point, leading sales to rapidly accelerate.[103] Moreover, the statewide ZEV sales percentages provide flexibility to advance ZEV adoption at different speeds in different parts of the state, already accounting for post-hearing comments concerned about impacts on rural drivers or noting that most ZEV sales currently occur in northern Illinois.[104]

Finally, adopting ACC II will accelerate ZEV adoption by providing a clear market signal that drives coordination, planning, consumer education, and investment in the transition across the private and public sectors.[105] This dynamic was highlighted by Ann Schreifels' public comments at the Springfield hearing, which described how emission standards were necessary to achieve the buy-in and market coordination that led Caterpillar to produce its best and cleanest engines.[106] Similarly, ACC II will act as a catalyst for Illinois' ZEV market.

2. Compliance Flexibilities

ACC II includes several compliance flexibilities designed with industry input to smooth the transition as ZEV sales ramp up.[107] Indeed, some of these flexibilities speak directly to IEPA's concern for the status of PHEVs, addressed above in Section II.B. More broadly, IEPA expresses uncertainty about how much manufacturers will use the rule's flexibilities in Illinois—that uncertainty is both inevitable and already accounted for.[108] Rule Proponents recognize that not all manufacturers will use all flexibilities to the full extent permitted. Indeed, the point of the flexibilities is to allow manufacturers to determine themselves whether and how to use them over time. Accordingly, ERM's "ACC II Flex" scenario uses projections from Shulock Consulting to incorporate a reasonable midpoint estimate of compliance use.[109] But even ERM's "ACC II Full"

[101] Some Rule Opponents argue that ZEV market share and consumer interest in EVs has stagnated in 2024, following a period of rapid growth from 2021–2023. The overall trend is toward a strong and growing ZEV market, and, as CARB stated in response to this industry talking point, "[p]eriods of limited growth are a typical, expected part of the technology adoption cycle." CARB, *The Calibrate Campaign: Misinformation vs. Facts* at 1 (*cited in* ELPC Comment at 7). Temporary plateaus in growth have not stopped multiple markets from maintaining sustained growth at the pace needed to implement ACC II in Illinois. *See* Hr. Tr. at 45:10–47:6 (Mar. 10, 2025) (statement of Douglas); Hr. 2, Exh. 8; Hr. 2, Exh. 9.
[102] Hr. 1, Exh. 1, at 39–40; Hr. 2, Exh. 8; Hr. 2, Exh. 9.
[103] Hr. Tr. at 52:19–53:3, 55:11–24 (Mar. 10, 2025) (statement of Douglas); Hr. 2, Exh. 8; Hr. 2, Exh. 9.
[104] IADA Comment at 9–11. Indeed, because this is also where most of the state's vehicles are registered, the region can achieve most of the required ZEV sales in the early years of implementation, providing additional time for other parts of the state to catch up.
[105] Hr. 1, Exh. 1, at 38; Hr. Tr. at 62:9–18 (Mar. 10, 2025) (statement of Douglas).
[106] Hr. Tr. at 210:7–18, (Mar. 10, 2025) (statement of Schreifels).
[107] Hr. 1, Exh. 1, at 34–35.
[108] IEPA Comment at 30–31.
[109] Hr. 1, Exh. 1, at 107 n.9.

scenario, which does not assume any use of compliance flexibilities, is projected to achieve over $80 billion in net economic benefits by 2050.[110]

3. Affordability

ACC II will create significant consumer savings for ZEV owners. Opponents focus on ZEVs' average upfront cost, which is currently between 10 to 15% higher than that of combustion vehicles.[111] But as discussed in Section IV.B. above, the total cost of owning a ZEV is already lower than a combustion vehicle due to significant savings on fuel and maintenance costs.[112] And upfront ZEV costs are declining and projected to reach upfront price parity with combustion vehicles before model year 2029, when implementation of ACC II would begin in Illinois. This is true even before accounting for the significant available tax credits and incentives (discussed in Section IV.C.5. below), which make ZEVs even more affordable and which will support adoption as ZEVs approach upfront price parity.

4. Charging Infrastructure

Successfully implementing ACC II will require Illinois to continue building out from the foundation established under CEJA and to expand its efforts to support statewide EV charging as that statute requires—but this goal is well within reach. Rule Proponents' analysis accounts for the additional charging infrastructure needed to implement ACC II, as well as the associated costs, opportunities for job creation, and grid impacts.[113]

ACC II opponents do not identify any charging need that Rule Proponents have not considered in their analysis showing that the rule is cost-effective and feasible, or any insurmountable barrier to building out the needed charging network. IADA emphasizes the National Renewable Energy Laboratory's estimate of chargers needed by 2030, but the record does not indicate any inconsistency between this estimate of the *total* charging need and Rule Proponents' analysis of the number of *incremental* chargers needed under ACC II, compared to a baseline scenario.[114]

Opponents also largely ignore the many sources of investment, planning, and policy support that will help Illinois develop the needed charging network. These include hundreds of millions of state investment, as well as utilities' CEJA-mandated Beneficial Electrification ("BE") Plans, which have already provided for hundreds of millions of dollars in charging infrastructure investment, with provisions to ensure this investment benefits renters and low-

[110] *Id.* at 147.
[111] IEPA Comment at 46; IADA Comment at 17–18; Corn Growers Comment at 5–6. Average ZEV prices may be skewed higher by the current ZEV market's emphasis on luxury models, which would likely not persist if ACC II led automakers to seek ZEV sales across a greater share of their overall sales.
[112] Hr. 1, Exh. 1, at 40–41.
[113] *Id.* at 40, 47–49, 108, 115–117, 120–124.
[114] IADA Comment at 13; Hr. Tr. at 71:19–75:14 (Mar. 10, 2025) (statement of Douglas).

income customers.[115] In its post-hearing comments, ComEd expressed its confidence that these plans will "ensure the Proposed Rules can be implemented successfully."[116] State funds and programs will also continue to support charging infrastructure buildout as Illinois' ZEV market grows.[117] And legislation like the Electric Vehicle Charging Act helps ensure that home charging is available to as many Illinoisans as possible, including renters and condominium owners.[118] Finally, growth in the EV market driven by ACC II will create sustained, predictable demand for charging, providing the market signal needed to further develop Illinois' charging network.

5. Supportive Policies

Implementation of ACC II will be supported by a robust ecosystem of complementary policies and investments, from state rebates to utility Beneficial Electrification Plans. Opponents attempt to cast doubt on the sufficiency of these investments by comparing them to California's investments in developing the ZEV market.[119] This comparison suffers from several critical flaws. First, California's historic investments have laid the foundation for nationwide ZEV market success—driving research and development of more advanced, cost-effective ZEV technologies sold everywhere and building broad consumer awareness of ZEVs and their benefits.[120] Illinois does not need to reinvent the wheel, but can benefit from the leadership of California and other states. Second, Illinois' programs and investments are comparable to those of current ACC II states like Colorado—which surpassed California in ZEV market share in 2024, requires utilities to implement policies similar to Illinois' Beneficial Electrification Plans, and was cited by Alliance for Automotive Innovation witness Douglas as a model to follow.[121] Finally, as the ZEV market develops and ZEVs approach upfront price parity with combustion vehicles, the level of needed incentive support will continue to decline.

Opponents also note the expected loss of federal support under the Trump Administration, such as the cancellation of the National Electric Vehicle Infrastructure ("NEVI") program, which Illinois and other states have challenged in court.[122] The Trump Administration's hostility toward ZEVs is a setback, but it in no way makes successful ACC II implementation unachievable; if anything, it underscores the need for state leadership in addressing vehicle emissions. Robust investment by state and local governments, utilities, and the private sector will continue to propel Illinois' ZEV market forward, even with reduced

[115] Urbaszewski Comment at 4–5; Hr. 1, Exh. 19, at 135; Hr. 1, Exh. 1, at 46; 20 ILCS 627/45(b)(9), (d)(3) (2024) (defining BE plans to include low-income programs and requiring consideration of whether 40% of a plan's charging infrastructure investment serves environmental justice, low-income, and eligible communities).
[116] ComEd Comment at 4.
[117] IEPA Comment at 5–7; Urbaszewski Comment at 4; Hr. 1, Exh. 1, at 19–20, 46.
[118] Public Act 103-0053, 103rd Gen. Assemb., (Ill. 2024) (requiring all new homes in Illinois to be EV charging capable and giving tenants' rights to install and use EV charging equipment); Hr. 1, Exh. 14, at 65–66; Hr. 2, Exh. 7, at 46–48 (acknowledging that the Act "is probably the most aggressive EV building code law in the nation that should pave the way for EVs in the future," but arguing it does not solve all charging problems in the near term).
[119] IEPA Comment at 29–30; API Comment at 7.
[120] Hr. 2, Exh. 7, at 51–52.
[121] Hr. Tr. at 80:2–84:12 (Mar. 10, 2025) (statement of Douglas).
[122] IEPA Comment at 41–43, 45–46; IADA Comment at 14–16.

federal support.[123] And while certain sources of federal support have been threatened, there is reason for optimism that many other key federal programs like Illinois' Climate Pollution Reduction Grant will continue to support ZEV adoption in Illinois.[124]

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ACC II will advance Illinois' air quality objectives, and there is no better policy for reducing the state's greenhouse gas emissions. The rule will have massive health, environmental, and economic benefits. And it is achievable, despite opponents' claims to the contrary. The Board should adopt ACC II in this proceeding.

V. The Board Should Adopt ACT.

The record before the Board overwhelmingly supports adoption of the Advanced Clean Trucks ("ACT") rule, showing it will significantly reduce emissions from medium- and heavy-duty vehicles, yield economic benefits for Illinois residents, and is feasible to implement. Post-hearing comments in opposition to ACT—including IEPA's, which generally echoes speculative claims by industry opponents—offer no credible challenge to that record. Instead, they rely on unsubstantiated assertions that ACT will drive businesses out of Illinois, or raise implementation concerns that are either already addressed in the rule or being handled by other state agencies. Some concerns around issues such as vehicle price and availability or charging infrastructure needs raise legitimate concerns, others reflect industry misinformation. None, however, provide any basis to reject ACT now given that its sales requirements would not be in effect for several years. The Board should reject these unsupported criticisms and move the proposed ACT rulemaking forward, consistent with both the urgency of the diesel pollution crisis and the robust record supporting the rule.

A. Environmental and Public Health Benefits.

The ACT rule is projected to deliver major health and air quality improvements for Illinois, especially in communities most burdened by freight pollution. By 2050, it would cut NOx emissions from medium- and heavy-duty vehicles by 13%, $PM_{2.5}$ by 15%, and GHG emissions by 14%—yielding cumulative reductions of up to 16,500 metric tons of NOx and 307 metric tons of $PM_{2.5}$.[125] These reductions are expected to prevent up to 33 premature deaths, 35 hospital visits, and nearly 20,000 cases of respiratory illness, missed workdays, and restricted activity—benefits valued at nearly $460 million through 2050.[126] GHG reductions would total 1.6 million metric tons of CO_2e annually and up to 18 million cumulatively by 2050.[127] Because truck pollution disproportionately impacts low-income neighborhoods and communities of color,

[123] Hr. 1, Exh. 1, at 19–20, 45–46; Hr. 1, Exh. 19, at 135–138; Urbaszewski Comment at 4–5; *see generally* ComEd Comment (describing investments by state utilities).
[124] Urbaszewski Comment at 2–4.
[125] Hr. 1, Exh. 1, at 51, 135, 151.
[126] *Id.* at 140.
[127] *Id.*

these gains would be felt most where they are needed most. The benefits will only increase as Illinois transitions to a zero-emissions grid under CEJA. These projected benefits are based on a detailed analysis by Environmental Resources Management ("ERM"), a global consulting firm.[128] They are further supported by unrebutted testimony provided by Professor Daniel Horton, who modeled the environmental and health benefits of ACT with great specificity, and Dr. Peter Orris, who described those benefits from a medical perspective.[129]

By contrast, ACT opponents—including IEPA—offered no alternative modeling, relying instead on speculative market concerns that fail to undercut the clear public health and environmental benefits documented in the record. For example, the Illinois Trucking Association cites a study from a diesel trucking group that relies on flawed assumptions and lacks Illinois-specific data to claim that ACT would increase congestion and reduce environmental benefits—but even if congestion did increase (a claim unsupported by evidence), it is illogical to suggest that additional traffic from zero-emission vehicles would lead to higher emissions.[130] The Illinois Corn Growers Association raises two arguments that are likewise unsupported. First, it relies on the unrealistic assumption that Illinois' electricity grid will remain fossil-fuel dependent despite statutory decarbonization mandates. Even in that unlikely case, its own study concludes that zero-emission vehicles ("ZEVs") still produce emissions benefits.[131] Second, it suggests—without supporting data—that heavier ZEVs will increase tire wear emissions, even though its own cited research finds that EVs produce significantly lower total particulate matter emissions than gasoline or diesel vehicles and that substituting EVs for ICE vehicles "can improve air quality and reduce the adverse impact of PM on human health."[132] These arguments are emblematic of all attacks on the rule's health and environmental benefits—speculative, unsubstantiated, and ultimately unavailing.[133]

B. Net Economic Benefits.

In addition to the health benefits, the ACT rule is projected to generate over $3.5 billion in cumulative net economic savings for Illinois by 2050, with annual societal benefits reaching

[128] *Id.* at 12.
[129] *See* Hr. 1, Exh. 17, at 104–113 (underlined page numbers). *See also* Post-Hearing Comment from Prof. Daniel Horton (P.C. #403) (Apr. 11, 2025) (*hereinafter* Horton Comment) (describing his recent research that both post-dates his prefiled testimony and further evidences the public health harms attributable to truck emissions); Hr. 1, Exh. 10, at 28–37 (underlined page numbers).
[130] Post-Hearing Comment from Matthew Hart on behalf of the Illinois Trucking Association (P.C. #419) (Apr. 23, 2025) (*hereinafter* "ITA Comment").
[131] Corn Growers Comment at 17–18.
[132] S.H. Woo et al., *Comparison of Total PM Emissions Emitted from Electric and Internal Combustion Engine Vehicles: An Experimental Analysis*, Sci. of the Total Env't 842 156961 (2022), https://perma.cc/2GQW-F8PD at 11 (a "comprehensive[ ] evaluat[ion of] the exhaust and non-exhaust emissions [i.e. from tire wear]. . . showed that the total PM [emissions factors] of the EV was significantly lower than that of the gasoline ICEV and diesel ICEV.") (*cited in* Corn Growers Comment at 19).
[133] Beyond these misplaced criticisms of ERM's overall conclusions regarding environmental benefits, opponents of ACT adoption raise the specter that ACT would lead to more out-of-state trucks on Illinois roads. As explained below, *infra* V.C.1, the record reveals such predictions as unsupported and farfetched.

$466 million.[134] These include $1.9 billion in avoided climate damages, $497 million in improved health outcomes, $581 million in utility bill savings, and $209 million in annual net fleet savings from lower fuel and maintenance costs.[135] These projections likely understate the full benefits, as they exclude federal incentives, updated social cost of carbon estimates, and recent data on cost parity. The rule is also expected to create 1,090 net new high-paying jobs by 2035 and increase Illinois' GDP by up to $175 million.[136] By 2040, the new jobs are expected to pay more than twice as much as those replaced.[137] As Illinois and other states adopt ACT and the zero-emission truck market grows, Illinois manufacturers will benefit from rising demand—making the rule not only a climate solution, but a smart economic strategy.[138]

As with environmental and health benefits, no post-hearing comment seriously challenges ERM's conclusion that ACT would deliver massive net economic benefits. Opponents offer no comprehensive modeling or credible alternative estimates—instead, they rely on unsupported speculation about market responses or attempt to nitpick ERM's methodology without showing how any of their critiques would meaningfully alter the ERM's basic conclusions or the rule's underlying economic justification.

C. Feasibility and Affordability.

With a few minor exceptions addressed below, IEPA and other ACT opponents argue that the rule will not deliver the projected benefits, based on the assumption that M/HD ZEVs will not be operating on Illinois roads due to vehicle availability and cost, infrastructure, or business relocation. Though some relate to legitimate rule implementation questions, none of the ACT opponents' feasibility and affordability arguments show the rule will not be implemented as it is designed or will not deliver the projected benefits.

These post-hearing comments appear to misunderstand the basic operation of ACT. [139] ACT applies to the sale of medium- and heavy-duty ("M/HD") vehicles over 8,500 pounds, including classes 2b-8.[140] It requires manufacturers to meet specified sales requirements for zero-emission vehicles ("ZEVs") as a percentage of annual sales, with exact obligations varying by M/HD vehicle class and increasing over time,[141] as the market for those sorts of ZEVs grows.

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[134] Hr. 1, Exh. 1, at 52. Compared to the previous federal standards, projected cumulative net benefits through 2050 jump to $22.7 billion. *See id.*
[135] *Id.*
[136] *Id.*
[137] *Id.* at 53.
[138] Segall Comment at 2–3; *see also* Post-Hearing Comment of Ray Minjares on behalf of the International Council on Clean Transportation (P.C. #513) at 2–4 (Apr. 28, 2025) (*hereinafter* "ICCT Comment").
[139] *See, e.g.*, ITA Comment (opposing the electric truck mandate under ACT without describing said mandate), *see also* Hr. Tr. at 361:4–7 (Mar. 10, 2025) (Mr. Hart expressing the incorrect belief that the proposed ACT would require 100% electrification in MY2036 at hearing); *see also* Post Hearing Comment from the Illinois Chapter of the National Waste & Recycling Association (P.C. #522) (Apr. 28, 2025) (*hereinafter* "NWRA Comment") (implying that ACT would force waste & recycling fleet electrification, when ACT mandates neither the replacement of existing trucks nor 100% electrification).
[140] Hr. 1, Exh. 1, at 246; Cal. Code Regs. Tit. 13, § 1963(b).
[141] Hr. 1, Exh. 1, at 246; Cal. Code Regs. Tit. 13, § 1963.1(b).

The ZEV sales requirement increases gradually, from 25–40% of new M/HD vehicles sold in 2029 depending on the class, 40% and 75% of all new vehicles sold in 2035, again depending on the class of vehicle.

Because the rule does not require 100% ZEV sales in any M/HD class and the sales requirements are statewide such that different industries and regions can still electrify at different rates, ACT opponents' characterization of ACT as imposing a rigid mandate that would drive M/HD fleets out of Illinois is simply wrong.[142] The many arguments based on this misunderstanding of the rule are addressed below.

1. Out-of–State Registration

Industry—echoed by IEPA[143]—assert that M/HD vehicle fleets will leave the state if ACT is adopted, but those claims are unsupported and reflect a misunderstanding of the application of ACT that is predominantly focused on Class 7–8 long-haul tractors.

Though industry lobbyists explicitly base their opposition to ACT on concerns about the effect of electrifying 100% of medium- and heavy-duty vehicles sold in Illinois,[144] the reality is that ACT will never impose a 100% ZEV sales requirement. Class 7–8 tractors, in particular, would be subject to a sales percentage requirement that increases from 25% in MY 2029 to 40% in MY 2035.[145] And Class 7–8 tractors are not exclusively long-haul trucks. ERM's analysis found that only two-thirds of tractors were used for long-distance freight hauling.[146] Those calculations may be conservative: The Union of Concerned Scientists found that more than 50% of Class 7–8 tractors operate less than 100 miles daily.[147] That data suggests that as many as one-half of Class 7–8 tractors may never face potential long-haul charging difficulties. Therefore, because the tractor sales requirement tops out at 40%, a manufacturer could meet its ACT obligations without ever selling electric Class 7–8 tractors for long-haul use.

Many industry arguments against the ACT rule rely on unsupported claims that fleets will leave Illinois. These bald assertions ignore the reality that most medium- and heavy-duty vehicle operations are not 18-wheelers on interstates anyway, but are inherently local and cannot simply relocate. The record shows that most M/HD trips are depot-based and serve in-state routes, a point underscored by both industry data and expert testimony.[148] Despite this, opponents offer no

[142] ITA Comment.
[143] IEPA Comment at 21–23.
[144] *See* Hr. Tr. at 361:4–7 (Mar. 10, 2025) (Hart: "At this point it's [Illinois Trucking Association's] understanding this [Proposal] mirrors California, and as I said in here, for 2036 and subsequent years, 100 percent would have to be ZEV requirement.")
[145] Hr. 1, Exh. 1, at 246; Cal. Code Regs. Tit. 13, § 1963.1(b).
[146] Hr. 1, Exh. 1, at 82.
[147] Hr. 1, Exh. 14, at 56 (citing Sam Wilson, *Delivery Vans Are Going Electric: Where and Why*, Union of Concerned Scientists (Sept. 17, 2024), https://blog.ucsusa.org/sam-wilson/delivery-vans-are-going-electric-where-and-why/).
[148] *See* Mercedes Comment at 2 (relying upon "EPA HD TRUCS analysis" to conclude that approximately 96% of medium- and heavy-duty battery electric vehicles are assumed to use depot-based charging); API Comment at 2–3 (listing, in a section mislabeled as "Illinois has Unique Truck Needs," roughly seven types of M/HD uses, all but

supporting evidence for their claims that fleets would relocate out of state,[149] and IEPA repeats these assertions without independently verifying them, even admitting in a footnote that it has not reviewed their underlying basis.[150]

Relatedly, in criticizing ACT's environmental benefits, some ACT opponents noted that the ACT regulation does not cover out-of-state trucks.[151] But ERM already took that factor into account in its analysis; the benefits cited in the Rule Proponents' Statement of Reasons are based only on M/HD vehicles registered in Illinois.[152] Again, nothing in the record substantiates vague assertions that ACT will impact in any significant way the ratio of M/HD vehicles registered in- and out-of-state.

Finally, IEPA quotes Matthew Wells, a lobbyist for the Midwest Trucking Association,[153] for his assertion that if ACT were adopted, schools would outsource transportation services to businesses registered in other states.[154] But here IEPA uncritically accepts a trucking industry lobbyist who conceded in live testimony that he had no corroborating data, study, or analysis to support the claim, or a host of others.[155]

2. Affordability

ACT opponents also argue that ZEVs are too expensive[156] or that customer demand will not match ACT's sales requirements.[157] Those claims are unsupported and contrary to expert testimony in the record.

Rule Proponents detailed the fuel and maintenance cost advantages of ZEV vehicles at length in their Statement of Reasons. [158] For example, a May 2023 analysis by Roush Industries found that many M/HD ZEVs are expected to have a lower total cost of ownership ("TCO") than

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one of which, "long-haul freight," are unalterably local trips and none of which are unique to Illinois); Segall Comment at 3 ("Most fleets in a given state operate in that state because most trucking trips are local—and serve local clients." (emphasis omitted)).

[149] Hr. Tr. at 18:17–21:1 (Mar. 11, 2025) (Mid-West Trucking Association witness admitting his speculation on fleet relocations was not based on any quantitative analysis, evaluation of ERM's benefit calculations or on any studies or data of any kind); *See, e.g.*, ITA Comment (providing no citations for any claims asserted in his comment or prior testimony).

[150] IEPA Comment at 21–24 (the admission that it did not review any underlying data because industry failed to produce any data is on 22 n.10).

[151] IEPA Comment at 21–22; *also* Post-Hearing Comments from the Illinois Chamber of Commerce (P.C. #519) at 2 (Apr. 28, 2025) (*hereinafter* "ICC Comment"); *also* ITA Comment; *compare to* Hr. 2, Exh. 14, at 2; *also* Hr. 2, Exh. 22, at 4 (making the same observation earlier in this proceeding).

[152] Hr. 1, Exh. 1, at 76, 81.

[153] Hr. Tr. at 374:1–6 (Mar. 10, 2025).

[154] IEPA Comment at 23.

[155] Hr. Tr. at 19:16–21:1 (Mar. 11, 2025) (noting Mr. Wells' unsupported assertions address school buses, the economic and environmental impacts of ACT, Rule Proponent's cost benefit analysis, the number of out-of-state carriers operating in Illinois, the extent or cost of asserted out-sourcing, and the number of agency staff needed to implement the rule).

[156] ICC Comment at 2.

[157] Mercedes Comment at 5.

[158] Hr. 1, Exh. 1, at 55.

diesel vehicles by 2025, and RMI forecasted that long-haul trucks would reach TCO parity by 2028.[159] In addition, even the upfront purchase prices for electric freight trucks and buses are expected to be less expensive than combustion engine counterparts in most categories by 2027.[160] As a result, by the time the ACT regulation takes effect in MY 2029, costs will only favor the ZEV transition.

The single, specific study repeatedly cited by ACT opponents does not rebut this robust evidence. The Illinois Corn Growers Association relies on a study by Ryder[161]—the same one cited by Mr. Hart at the March hearing[162]—that found higher operating costs for ZEVs, but its conclusions are misleading.[163] The study considered only current costs in Georgia and California, ignored Illinois-specific factors like taxes, energy prices, labor costs, and available incentives, and failed to account for expected cost declines by model year 2029.[164] Crucially—and contrary to industry misrepresentations that the study was a 1:1 cost comparison, Ryder assumed that nearly two ZEVs would be needed to replace one diesel truck and that ZEVs would require more drivers working longer hours for higher pay[165]—an assertion Mr. Hart could not explain.[166] Ironically, the Ryder study thus demonstrates that ACT will create meaningful job benefits for Illinois workers, even if it challenges corporate preferences for lower labor costs.

Industry opponents also generally ignore the myriad of utility, state, and federal incentives available to defray upfront M/HD costs and make the comparison to diesel counterpart even more favorable.[167]

For example, federal tax credits of up to $40,000 for qualified commercial heavy-duty vehicles.[168] The U.S. EPA Clean School Bus Program—with the third round of funds expected to disburse to Illinois soon—is set to replace 450 diesel school buses; indeed, over $169 million in funding is already awarded to local organizations and school districts.[169] At the state level, Illinois has allocated funds from the Volkswagen Environmental Mitigation Trust to replace heavy-duty combustion engine trucks with electric vehicles.[170]

Electric utilities' Beneficial Electrification ("BE") Plans also offer financial support for upfront M/HD ZEV purchases. As ComEd explained in its post-hearing comment, ComEd's first

[159] *Id.* at 56.
[160] *Id.*
[161] Hr. 2, Exh. 19, *also cited by* Corn Growers Comment at 7.
[162] Hr. 2, Exh. 15 at 10; *see also* Hr. 2, Ex. 19.
[163] The Board can disregard the comments of the Truck Renting and Leasing Association, as they were filed out of time and merely repeat industry misrepresentations of the Ryder study. Post-Hearing Comment from C. Jake Jacoby on behalf of the Truck Renting and Leasing Association (PC# 628) (May 12, 2025).
[164] Hr. 2, Ex. 19; Hr. Tr. at 290:1–292:10 (Mar. 10, 2025).
[165] Hr. 2, Ex. 19.
[166] Hr. Tr. at 296:1–299:10 (Mar. 10, 2025).
[167] Segall Comment at 1–3; *see also* Hr. 1, Exh. 19, PDF at 132–141; *see generally* Urbaszewski Comment (describing the status of various Illinois funds defraying these costs).
[168] Hr. 1, Exh. 1, at 57 (citing IRS, *Commercial Clean Vehicle Credit* (June 6, 2024).
[169] Urbaszewski Comment at 3; *see also* Hr. 1, Exh. 1, at 57–58.
[170] Hr. 1, Exh. 1, at 58.

BE Plan dedicated $114 million to offer financial incentives on electric fleet vehicles.[171] ComEd's rebates make a meaningful difference in cost; for example, heavy-duty vehicles receive a per-vehicle rebate of $50,000–$75,000.[172] In ComEd's second BE plan, heavy-duty vehicles will continue to be eligible to receive rebates of up to $75,000.[173] And Ameren's BE Plan 2 supports MHDV electrification through charger installation incentives and rebates and includes an opt-in EV rate to promote more cost-effective and grid-friendly charging.[174] Both utilities' plans prioritize funding for M/HD fleets in low-income communities. Moreover, these BE Plans are updated every three years, and can therefore be responsive to availability of other incentives as market needs evolve and ACT compliance approaches.[175]

Relatedly, some commenters asserted that there is simply insufficient interest in ZEVs from M/HD vehicle buyers or that M/HD fleet operators need technical assistance to switch to electric vehicles.[176] Fortunately, those needs are met in Illinois because, again, the BE Plans speak directly to them. The BE Plans include customer education and fleet assistance programs. ComEd's first BE plan included targeted outreach to low-income communities, as well as third-party fleet electrification feasibility assessments for commercial customers.[177] To further assist commercial and public sector customers, ComEd launched an EV load capacity map, which shows where developers can install EV chargers most efficiently.[178] The second BE plan continues ComEd's consumer education efforts, spending $11.1 million to expand awareness of electric vehicle benefits and rebates.[179] Ameren's recently approved BE Plan also offers a fleet assessment program to assist M/HD fleet owners in recognizing and realizing the financial benefit of transitioning to ZEVs.[180]

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[171] ComEd, *ComEd Beneficial Electrification Plan* (May 2023), at 37–38, https://icc.illinois.gov/docket/P2022-0432/documents/338224/files/589765.pdf.
[172] *Id.*
[173] ComEd Comment at 3 n.5 (*citing* Direct Testimony of Cristina Botero at 24, 27 (Pet. for Approval of Beneficial Electrification Plan, No. 24-0484 (Ill. Com. Comm'n, July 1, 2024)), https://www.icc.illinois.gov/docket/P2024-0484/documents/352350/files/616613.pdf).
[174] Ameren Illinois Pet. for Approval of Beneficial Electrification Plan 2, Ill. Com. Comm'n 24-0494 & 24-0578 (cons.) (Mar. 27, 2025), at 37, https://www.icc.illinois.gov/docket/P2024-0494/ documents/363210/files/636045.pdf (*hereinafter* "Ameren Final Order 24-0494 (2025)"); *see also* Urbaszewski Comment at 5 (citing the Final Order).
[175] 20 ILCS 627/45(f) (2024).
[176] Mercedes Comment at 3–4.
[177] ComEd Beneficial Electrification Plan, *supra* note 171, at 40–41.
[178] ComEd, *EV Load Capacity Map*, https://exelonutilities.maps.arcgis.com/apps/webappviewer/index.html?id=8d4f22be2a3b47b0bb86ca5438a8dd69.
[179] Pet. for Approval of Beneficial Electrification Plan, No. 24-0484 (Ill. Com. Comm'n, Mar. 27, 2025), at 35, https://www.icc.illinois.gov/docket/P2024-0484/documents/363213/files/636050.pdf (*hereinafter* "ComEd Final Order 24-0484 (2025)").
[180] Ameren Illinois Pet. for Approval of Beneficial Electrification Plan 2, *supra* note 174, at 60.

3. Model Availability

Some post-hearing comments raise concerns related to model availability[181] or performance characteristics like vehicle range.[182] Evidence in the record suggests that these concerns are overblown and unsubstantiated.

The Board must weigh these generalized industry claims against the specific evidence and expert trend analyses in the record, which show that the market is already on track to achieve sufficient M/HD ZEV availability in line with the ACT implementation timeline proposed for Illinois.[183] As one of Rule Proponents' experts noted in his pre-filed testimony, ZEVs are already available in all vehicle classes, and "[f]orecasted nationwide ZEV sales levels for vehicle classes covered by the rule are on par with or close to the rule's sales requirements."[184] Indeed, as of January 2024, there were over 160 models available from over 40 manufacturers which meet the M/HD ZEV sales requirement.[185] Even for long-haul freight trucks within Class 8—the specific use-case most difficult to electrify—models like the Tesla Semi are coming to market now with a range of up to 500 miles and can be recharged to 70% in just 30 minutes.[186]

Post-hearing comments confirm that sufficient model diversity and quantity of M/HD ZEVs—including Class 8 tractors—will be available.[187] International Council on Clean Transportation expert and leading technical researcher Ray Minjares explained that ACT will drive manufacturers to expand their zero-emission offerings and improve price competitiveness with existing technology, as fleets retain full choice over what to purchase.[188] He and former CARB Deputy Executive Officer Craig Segall cited real-world data from California, where ZEV sales have exceeded ACT requirements by 60%, and 155 M/HD ZEV models are available.[189] CALSTART also reports 200 models currently available across the U.S. and Canada, with more emerging rapidly.[190]

In addition, ACT already addresses industry concerns about vehicle characteristics by setting sales requirements by vehicle class, as there are a wide variety of vehicle types within each class and some are easier to electrify than others. For example, both cement trucks and freight terminal trucks fall under Class 8. Manufacturers like Orange EV have already deployed

[181] API Comment at 2–4; *also* Corn Growers Comment at 9 n.34; Mercedes Comment at 4; *see also* Hr. 2, Exh. 22, at 5.
[182] Mercedes Comment at 4 ("Challenges of Supply of Medium-Duty and Heavy-Duty Vehicles"); also Corn Growers Comment at 8 (describing that EVs may be unfit for "heavy farmwork").
[183] Hr. 1, Exh. 12, at PDF 19–24; *also* Hr. 1, Exh. 1, at 53–55, 58–59.
[184] Hr. 1, Exh. 12, at PDF 19–20. *See also* Hr. 1, Exh. 1, at 53.
[185] Hr. 1, Exh. 1, at 53 (*citing* CALSTART, *Zeroing In On Zero-Emission Trucks: The State of the U.S. Market* (Jan. 2024), at 6, ("CALSTART 2024 Market Update")).
[186] Hr. 1, Exh. 14, at PDF 56.
[187] ICCT Comment at 3.
[188] *Id.* at 2.
[189] *Id.* at 2; Post-Hearing Comments of Craig Segall (P.C. #517) at 2 (Apr. 28, 2025) (*hereinafter* "Segall Comment") (attaching CARB Staff Report at PDF 146–331 supporting this proposition).
[190] Post-Hearing Comment of CALSTART (P.C. #524) (Apr. 28, 2025) at 2.

electric Class 8 terminal trucks in Illinois,[191] which could generate compliance credits for others continuing to sell diesel cement trucks. Small-volume manufacturers selling fewer than 500 vehicles annually, which may sell more unique vehicle-types, are also exempt entirely. Nothing in the record suggests these built-in flexibilities are inadequate, particularly when paired with the compliance credit trading options discussed below in Section V.C.6.

Some post-hearing commenters echo industry lobbyist testimony that asserted that M/HD ZEVs are both more expensive than in other markets and available in lower numbers and less diversity than what is necessary to meet ACT requirements, and suggest states that have adopted ACT are now finding it impossible to implement.[192] It is crucial for the Board to consider the mounting evidence from other states that suggests any current vehicle costs or availability issues are both short-term[193] and the result of manufacturers engineering a false crisis.[194]

As CARB has explained, some manufacturers have unilaterally decided to require dealers to purchase a certain number of ZEVs before they can get combustion-engine vehicles.[195] But the reality is that ACT does not impose a rigid ratio policy on dealers. The rule only regulates manufacturers, and they have flexibility to meet ZEV sales requirements. For example, manufacturers can focus their compliance strategy on vehicle models that are best suited to electrification and on areas of the state that are most prepared for the ZEV transition.[196]

Moreover, there is evidence that manufacturers' sales representatives have misled dealers by claiming to them that product availability issues were caused by the implementation of ACT.[197] The same manufacturers have told CARB that ACT has nothing to do with any vehicle availability issues. This has been described as an apparent attempt by manufacturers to goad dealers, rather than manufacturers, into leading opposition to the regulations.[198] Indeed, that is precisely what the Board has experienced in this proceeding, where the principal opponents of ACT adoption have been M/HD dealers or buyers, not manufacturers.

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[191] Post-Hearing Comment from Terry Manies on behalf of Orange EV (P.C. #406) (Apr. 16, 2025) at 1.
[192] *See* Corn Growers Comment at 23–24; *also* EMA Comment at 5.
[193] Segall Comment at 1–2.
[194] ELPC Comment at 7 (*citing* CARB, *The Calibrate Campaign: Misinformation vs. Facts* at 3 (Mar. 2025), https://ww2.arb.ca.gov/sites/default/files/2025-03/CNCDA%20Calibrate%20Campaign%20Fact%20Check_Final_0.pdf (noting that manufacturer claims of slashing new vehicle sales amount to a "false narrative")).
[195] Hr. 2, Exh. 17, at PDF 64.
[196] *See id.*
[197] *See id.*
[198] Dave Cooke, *Trucking Industry Disinformation Will Cost Lives*, The Equation (Oct. 30, 2024), https://blog.ucs.org/dave-cooke/trucking-industry-disinformation-will-cost-lives/. Because manufacturers agreed not to oppose ACT as part of California's Clean Truck Partnership agreement, "they are waging that war by proxy, pushing dealers to oppose the regulations through lies and market manipulation." *Id.*

Post-hearing comments claiming that other ACT-adopting states are finding sufficient M/HD ZEVs to be unavailable[199] appear to be a symptom of the same short-term problem created by industry itself. Indeed, states like Massachusetts have used ACT enforcement discretion with only as to immediate model years and on the condition that manufacturers stop deliberately withholding M/HD ZEV supply.[200] In fact, examples of other ACT states using such enforcement discretion to deal with near-term issues only highlights that Illinois could similarly adjust to transient market trends or manufacturer behavior in the future, after it adopts ACT, and with the help of other ACT states and expert groups like NESCAUM.[201] Indeed, the record supports the conclusion that if Illinois adopts ACT, M/HD ZEV vehicle availability will improve and costs will come down. Mr. Minjares of the ICCT points out that "Illinois's participation in this new market through adoption of these rules increases the likelihood of success for all involved."[202] Mr. Minjares explained that, globally, "a small number of multi-national companies [] dominate the market for zero-emission trucks."[203] This means that the same M/HD ZEVs being manufactured and sold in other markets could be sold in Illinois if it "tap[s] into the supply chain for these very same technologies from these very same companies through adoption of the" ACT and Low NOx rules.[204]

4. Charging Infrastructure

Post-hearing comments continue earlier industry hand-wringing around the current availability of ZEV charging infrastructure in Illinois.[205] While accounting for sufficient charging capacity is no doubt important, vague industry naysaying based on charging available today cannot justify ignoring the evidence in the record showing sufficient charging capacity will be available on a timescale compatible with ACT implementation and in recognition that ACT would never require 100% M/HD electrification. The record reflects this with both the quantitative analysis provided by ERM and the qualitative description of programs and trends provided by witnesses like Brian Urbaszewski.[206] No industry testimony or post-hearing comment specifically rebuts or calls into question this testimony.

Instead, industry lobbyists continue to offer misleading assertions and generalizations. The scant material that industry offers are based on 100% electrification scenarios that have no bearing on the ACT proposal before the Board.[207] Even the few complaints that specified

[199] Corn Growers Comment at 23–24; *also* EMA Comment at 5.
[200] Segall Comment at 2.
[201] ELPC Comment at 6–7.
[202] ICCT Comment at 1.
[203] *Id.* at 2.
[204] *Id.*
[205] *See, e.g.,* Post-Hearing Comments of Illinois Envt. Regulatory Group (P.C. #514) at 2–5; ITA Comment (describing "infrastructure challenges" from ACT); *also* Corn Growers Comment at 10–11.
[206] *See* Hr. 1, Exh. 1, at 57–58; *see also* Hr. 1, Exh. 19, PDF at 132–138; *see generally* Urbaszewski Comment (wholly focused on the ongoing infrastructure development and project funding in Illinois).
[207] For example, Matt Hart, on behalf of Illinois Trucking Association, writes in post-hearing comment that the Proposal "imposes . . . infrastructure challenges" on Illinois. *See* ITA Comment. Presumably, these "infrastructure

concerns about M/HD charger availability focused on public or highway chargers.[208] But, as Rule Proponents pointed out and as Mercedes noted, a huge proportion of M/HD ZEVs will charge at private chargers installed by their operators.[209] And the proposed ACT here will never compel widespread electrification of long-haul tractor trailers.[210]

Indeed, industry lobbyist protestations regarding charging capacity ignore that charging simply does not need to be available everywhere all at once to make implementation of ACT feasible. Post-hearing comments from independent transportation experts highlight that ACT requirements "can be met by focusing primarily in those areas of the national freight network where freight activity is greatest."[211] That specifically includes "ports, industrial zones, and freight corridors," just like those so densely concentrated in Chicagoland and near the most air-pollution impacted communities.[212] Fleets serving these areas will also see most quickly the total cost of ownership advantages of ZEVs.[213]

The fact is that, through federal, state, and private programs, Illinois is on track to have ample M/HD charging infrastructure by the time the ACT rule takes effect.[214] For example, the Alternative Fuel Infrastructure Tax Credit provides up to $100,000 toward the cost of building new charging infrastructure.[215] ComEd has also invested in expanding access to public charging—totaling over $100 million in its first two BE Plans.[216] As ComEd notes in its post-hearing comments, ComEd provided nearly $18 million in incentives for public and private charging infrastructure just last year alone.[217] Importantly, ComEd's second BE plan, like its initial BE plan, specifically offers rebates of up to $75,000 to M/HD fleet operators to offset the expense of private charging installation.[218] This all funds build-out of public EV charging infrastructure in the years leading up to vehicle model year 2029.[219]

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challenges" are those that Mr. Hart identified at the March 10th, 2025 Hearing in this matter. At the hearing, Mr. Hart testified that he based his opinion on a study that presumed 100% M/HD electrification and was based on geographically-dependent data from California, Georgia and North Carolina. *See* Hr. Tr. at 337–38 (Mar. 10, 2025) (discussing Hr. 2, Exh. 21, at 4).

[208] At the March 10th hearing, Mr. Hart confirmed that his Illinois Trucking Association membership was concerned about a lack of *public* chargers, despite admitting that private electric truck chargers are operational in Illinois. *See* Hr. Tr. at 329:6–330:9 (Mar. 10, 2025).

[209] *See* Mercedes Comment at 2. *See also supra* at Section V.C.4.

[210] *See* Hr. 1, Exh. 1, at 49–50. *See also supra* at Section V.C.

[211] ICCT Comment at 3.

[212] *Id.* at 3–4.

[213] *Id.* at 4.

[214] Hr. 1, Exh. 1, at 57–58; Hr. 1, Ex. 19, PDF at 135–38; Urbaszewski Comment at 1–6.

[215] Hr. 1, Exh. 1, at 57.

[216] ComEd Comment at 3.

[217] *Id.* at 1.

[218] *Id.* at 3.

[219] *Id.* at 1–2.

5. ACT Efficacy for an Interstate Shipping Hub

Post-hearing comments argued against ACT adoption based on an array of ways in which industry lobbyists assert that Illinois is different from California. Some of those observations are false; all are unpersuasive.

First, some commenters suggested that Illinois would need to adopt *all* of California's vehicle regulations—even those beyond ACC II, ACT, and Low NOx—in order to see any environmental benefits.[220] Evidence in the record demonstrates otherwise. ERM's analysis examined the impacts of ACT separate from ACC II and with or without the Low NOx rule, without presuming the implementation of other California rules, and it nevertheless found ACT's adoption would lead to significant benefits.[221] Moreover, none of the other states that have adopted ACT have done so against the precise backdrop of every other California rule.

Second, some post-hearing commenters—including IEPA—claim that ACT can only function in a state entirely surrounded by other ACT states.[222] But this argument simply doesn't hold up: simply looking at a map of the U.S. reveals it to be factually incorrect.

Many ACT states share borders with non-ACT states. California, for example, borders Nevada and Arizona; Maryland borders no other ACT state; and Colorado and New Mexico—though adjacent to each other—are otherwise surrounded by non-ACT states like Arizona, Utah, Nebraska, Kansas, Oklahoma, and Texas.[223] Yet there is no evidence in the record of competitive harm in those states: no reduction in out-of-state truck registrations, no loss of in-state trucking revenue, and no other sign of disadvantage. Similarly, Pennsylvania's failure to adopt ACT has not triggered an exodus of trucking companies from neighboring ACT states like New York, New Jersey, or Maryland. IEPA and industry offer no analysis or evidence suggesting that ACT implementation in Illinois would yield different results. The post-hearing comment from a former CARB official further dispels this demonstrably false industry talking point:

> As to long-haul trips, I can report that California, too, is a major freight hub, and does not border only ACT-adopting states. The practical reality is that ACT operates, nonetheless, to secure very substantial in-state benefits, from pollution

[220] *See* Mercedes Comment at 3–4 (section titled "Lack of Complementary Policies to Enable Successful Implementation of ACT in Illinois"); *see also* Hr. 2, Exh. 22, at 4 (unpaginated).
[221] Hr. 1, Exh. 1, at 50–52.
[222] IEPA Comment at 21–22; *also* ICC Comment at 2 (stating in-state trucking companies will be "placed at a significant disadvantage compared to those in neighboring states not subject to these mandates"); *also* ITA Comment (stating ACT "will not meaningfully improve air quality due to the high volume of out-of-state trucks that are not covered by the proposed regulation", as trucks can come from neighboring states). *Compare to* Hr. Tr. at 247:9–24 and 248:1–5 (Mar. 10, 2025)).
[223] *See* Hr. 1, Exh. 1, at 14 (*citing* Sierra Club, *Clean Vehicle Programs: State Tracker*, https://www.sierraclub.org/transportation/clean-vehicle-programs-state-tracker, (*hereinafter* "Clean Vehicle State Tracker") (mapping the other states which have adopted ACT)).

reductions to new jobs, while the remaining trucks registered elsewhere simply continue about their business.[224]

Relatedly, post-hearing comments from independent experts explain that ACT implementation is consistent with Illinois' role as a shipping hub. Like Illinois, California is also a massive hub for long-haul freight operations, so ACT was designed specifically for a state with huge internal ports and intermodal shipping facilities drawing long-haul trucks from all over the country.[225] Indeed, the presence of the Illinois International Port District, a "key hub in this system," presents a reason why M/HD electrification can work to particularly great effect in Illinois, both for the local ZEVs that will serve the port directly and as a locus of longer term long-haul ZEV infrastructure that could develop in and around the Port.[226] Indeed, in November 2024 Illinois received $95 million through the federal Clean Ports Program to fund port improvements necessary for electrification.[227] Illinois' location as a freight hub bordered by non-ACT states, just like California's, means it is poised to benefit particularly from ACT adoption.

6. Compliance Flexibilities

Manufacturers have significant flexibility in meeting ACT's annual sales percentage requirements, yet post-hearing commenters opposing the rule largely ignore how its credit system mitigates concerns about internal combustion engine ("ICE") inventory constraints or challenges in specific vehicle classes. Credits can be banked and transferred across years and classes, allowing manufacturers to remain in compliance even if they face temporary shortfalls.[228] While IEPA, the Illinois Auto Dealers Association, and the Corn Growers Association acknowledge these credit flexibilities, they dismiss them as inadequate—without offering any explanation or data to support that claim.[229]

Supportive post-hearing comments reinforce Rule Proponents' testimony and further demonstrate how ACT's credit system facilitates manufacturer compliance. The Environmental Law & Policy Center, citing a recent CARB fact sheet, explains that ACT includes numerous flexibilities: sales are averaged over three years; banked credits can offset future shortfalls; deficits can be carried forward for up to three years; and manufacturers can trade credits.[230] Credits may also be applied across vehicle classes—covering everything from pickups and delivery vans to school buses and freight trucks—except for Class 7–8 tractor deficits, which

[224] Segall Comment at 3.
[225] *Id.* at 1, 3 (describing California as a "major freight hub" and speaking "as a former California official" "draw[ing] upon . . . nearly twenty years of environmental program design experience, including on all three [Proposed] rules").
[226] ICCT Comment at 2.
[227] Urbaszewski Comment at 3. Mr. Urbaszewski comments that IEPA has already drafted the Notice of Funding Opportunity for this award and is preparing to distribute these funds shortly. *Id.* at 2–5.
[228] Hr. 1, Exh. 12, at PDF 19; Hr. 1, Exh. 1, at 54.
[229] *See, e.g.*, IEPA Comment at 26–27, 30-31; *also* IADA Comment at 22–23; *and* Corn Growers Comment at 9.
[230] ELPC Comment at 7 (*citing* CARB, *The Calibrate Campaign: Misinformation vs. Facts* (Mar. 2025), https://ww2.arb.ca.gov/sites/default/files/2025-03/CNCDA%20Calibrate%20Campaign%20Fact%20Check_Final_0.pdf).

must be met with credits from the same class.[231] Other comments highlight ACT's "extensive banking and trading provisions,"[232] while the International Council on Clean Transportation emphasizes that ACT's phased sales targets and class-specific timelines allow manufacturers to adapt over time and adjust strategies in response to market changes.[233] These flexibilities built into the ACT credit system directly address the concerns raised by post-hearing commenters.

7. Industry Misstatements

Post-hearing comments from a few industry sectors express a preference to avoid changing established business practices. Most of their concerns are unsubstantiated because ACT would not have the effect they claim or are unrelated to ACT entirely, and none justify forgoing the significant public health and climate benefits the rule would deliver to Illinois.

For example, the Illinois Corn Growers Association claims ZEVs may not meet the needs of "long-distance travel and heavy farmwork," but fails to acknowledge that ACT applies only to on-road vehicles—not off-road farm equipment.[234] And, as noted above, the inherent rule flexibilities account for the unique challenges of long-haul vehicles. Similarly, the National Waste & Recycling Association appears to assume ACT would force immediate replacement of natural-gas powered trucks with ZEVs.[235] In reality, ACT imposes only gradually increasing requirements on the percentage of ***new*** M/HDV truck sales that are ZEVs. There is neither a mandate nor timeline to require the retirement of existing vehicles. Even still, because ACT never requires 100% ZEV sales, manufacturers can continue selling ICE models beyond 2035, including selling ICE vehicles to fleet operators with specialized preferences or needs like natural gas-powered waste collection vehicles or concrete mixers.

* * *

Emissions from diesel M/HD engines registered in this state are literally killing people every day in Illinois, with those impacts borne most by the people in our state who already live with the worst overall air quality. The record compels the conclusion that the Board must act on this public health crisis. And the Board should do so through promulgating ACT. ACT will gradually reduce the number of those engines operating in Illinois—and therefore dramatically reduce the magnitude of those daily and deadly harms—through a balanced statewide approach that allows for different industries and geographies to electrify at different rates and provides

[231] Hr. 1, Exh. 1, at 49, 81; Cal. Code Regs. Tit. 13, § 1963.3; *see also* Kari Lydersen, *The Bid to Make Illinois a Leader on Electric Trucking*, Canary Media (Apr. 1, 2025), https://www.canarymedia.com/articles/electric-vehicles/illinois-advanced-clean-trucks-california-trump (*quoting* Trisha DelloIacono, the head of policy for Calstart, as she explained, "If, for example, a truck-maker sells a lot of zero-emission delivery vans but doesn't offer a zero-emission version of their box trucks, they can convert their extra [pickup and van] credits into [midsize truck] credits and still maintain compliance").
[232] Segall Comment at 2.
[233] ICCT Comment at 3.
[234] Corn Growers Comment at 7.
[235] NWRA Comment.

built-in flexibilities that, working with other state policies, will smooth the market transition in both the supply of and demand for M/HD ZEVs.

VI. The Board Should Adopt the Low NOx Rule.

The Board should adopt the Low NOx rule because it will provide significant health benefits for Illinois residents—especially if the current federal administration rolls back corresponding federal M/HD emissions standards. The Low NOx rule sets emissions standards for new internal combustion engine M/HD vehicles sold in Illinois, and the record confirms it is both feasible and cost-effective. Few post-hearing comments addressed the Low NOx rule at all; many industry groups like the Illinois Trucking Association, Mercedes-Benz, and the National Waste & Recycling Association focused exclusively on ACT and zero-emission technologies.[236] The few comments in opposition to the Low NOx rule fail to contradict meaningfully the conclusion compelled by the record that the Low NOx rule will deliver significant net-benefits to the people of Illinois and that the rule is both technically feasible and legally viable.

A. Low NOx Is a Feasible Emissions Standard That Will Deliver Massive Benefits to the People of Illinois.

The Low NOx rule establishes quantitative exhaust emissions standards for NOx and PM for new, heavy-duty diesel engines.[237] Its NOx standards are more protective than the current federal standards promulgated in 2023; the PM standards are similar.[238] The Low NOx rule is a performance-based standard for combustion vehicles—the kind of emissions control that has been used to reduce truck pollution for decades.[239] As aptly put by independent international trucking expert ICCT: "The trucking industry is proud of its historical progress in reducing its pollution. But the fact is that all of this progress is a direct product of **both California** and federal emission control regulations that require manufacturers to deploy this technology."[240]

Further, because the Low NOx Rule is an exhaust standard for diesel engines, none of the concerns raised about M/HD ZEV adoption under ACT apply to the feasibility or implementation of this rule. For the same reason, IEPA's flawed arguments challenging the

[236] *See* ITA Comment ("oppos[ing] the proposed mandate for electric trucks in Illinois under Docket Number R24-27"). *See also* Mercedes Comment *and* NWRA Comment (both expressly limiting the opposition contained in their respective comments to ACT).
[237] Hr. 1, Exh. 1, at 59.
[238] *Id.*
[239] While admitting that emissions from trucks have been entirely driven by more stringent standards like the Low NOx rule, one trucking industry lobbyist repeatedly assert that these tailpipe emissions reductions were accomplished under federal standards, but he offered no explanation for why emissions from new Illinois trucks would not be reduced by more stringent Illinois standards. Hr. Tr. at 348:9–350:4 (Mar. 10, 2025). As discussed above, there is nothing in the record to support the idea that the Proposed Rules—let alone Low NOx specifically—will change the ratio of Illinois-registered trucks on Illinois roads and the actual record evidence contains ERM's analysis of the Low NOx benefits which accounted for only Illinois-registered trucks. *See* Hr. 1, Exh. 1, at 61–62.
[240] ICCT Comment at 4.

Board's authority under Section 10 have no relevance to the Low NOx rule—even if they had any merit with respect to the other Proposed Rules.

The record established throughout this proceeding clearly shows the Low NOx rule to be feasible, as CARB developed the Low NOx technical provisions in partnership with industry groups and other regulators and "demonstrated and modeled cost-effective solutions to meet the MY 2027 standard."[241] That record has not been seriously challenged by any party,[242] and post-hearing comments further demonstrate the feasibility of the Low NOx rule. ICCT notes that the Low NOx rule requires "commercially available…technology"[243] Moreover, ICCT explains that the Low NOx rule will put downward pressure on the costs of these cleanest engines, too, because expanding the market for Low NOx compliant engines will result in the "scaling of investment [that] puts significant downward pressure on the cost of the emission control upgrades."[244] Public commenter Ann Schreifels, a former Caterpillar employee who worked on implementing diesel engine emissions standards, provided a clear example of how such standards are achievable. She recounted how Caterpillar initially resisted cleaner engine requirements, doubting both feasibility and market demand. But once stricter standards were in place, fuel suppliers, manufacturers, engineers, and designers collaborated to produce what she described as "the best engine that Caterpillar ever made."[245] This example underscores how strong regulatory mandates can drive cross-industry innovation and deliver cleaner, more effective technologies that protect public health.

The Low NOx rule will produce profound public health benefits in Illinois if it is implemented—whether the Trump administration succeeds in rolling back the 2023 federal standards or not. If implemented with ACT, it would reduce nitrogen oxide ("NOx") emissions by 43% compared to the current federal standards adopted in 2023.[246] If those 2023 federal standards are rolled back, the Low NOx rule would deliver a 90% emissions reduction compared to prior federal baseline.[247] That would, in turn, improve air quality across the state and produce

[241] *See, e.g.*, Hr. 1, Exh. 1, at 62–63.
[242] The Illinois Corn Growers Association asserted that the emissions standards in the Low NOx rule are "below what is practically achievable"; however, the association provides no evidence to support that claim. Corn Growers Comment at 2. The Corn Growers also cited an American Truck Dealers press release asserting that the Low NOx rule has contributed to vehicle model availability issues. *Id.* at 4–5. As described below, *see infra* at note 255, engine manufacturers themselves have denied that assertion to CARB and it appears that this opinion sometimes espoused by dealer groups is the result of a concerted misinformation effort among salespeople. Additionally, the CARB adjustments to Low NOx that allowed for greater "legacy" engine sales, which the Corn Growers reference, only applied to model years 2024–2026, several years before Low NOx would apply in Illinois under this proposal. CARB, *Clean Air Act § 209(b) Waiver Request Support Document* (July 8, 2024) at 5, https://perma.cc/TGV6-4N3W (*cited by* Corn Growers Comment at 4).
[243] ICCT Comment at 1.
[244] *Id.* at 4.
[245] Hr. Tr. at 209:7–211:24 (Mar. 10, 2025).
[246] Hr. 1, Exh. 1, at 60.
[247] *Id.* (explaining that ERM modeled emissions reductions from a scenario in which Illinois adopts only ACT and another scenario in which it adopts both ACT and Low NOx; the difference between the two scenarios represents the effect of implementing only the Low NOx rule).

an estimated $876.5 million in additional public health benefits as compared to the 2023 federal standards.[248] Those additional public health benefits would not only be much larger for Illinois in the event that federal standards are rolled back, but it underestimates public health benefits considerably because it monetizes only health benefits related to PM reductions, not even capturing benefits from reductions in NOx or related pollutants.[249] Benefits of Low NOx are expected to outweigh compliance costs by $3.7 billion, measured against likely compliance costs and relative to pre-2023 federal emissions standards.[250]

Indeed, numerous post-hearing comments highlighted again the pernicious and deadly effects of pollution that would be reduced by the Low NOx rule, including independent experts like Professor Daniel Horton[251] and the ICCT.[252] ICCT, in particular offers another unaccounted for benefit in the Low NOx rule—its extended warranty requirement, which will require engines to meet the increased emissions standards for ten years instead of the five years required otherwise. "Without such a provision, diesel trucks risk becoming super polluters for the majority of their operational lifetime."[253] And the Board cannot ignore the post-hearing comments from dozens of Illinoisans pleading for protection from the lung disease and other health harms caused by diesel pollution—pollution that is taking lives in this state every day.

B. Adopting Low NOx in Illinois Now Is the Best Protection Against Uncertainty at the Federal Level.

Consistent with Section 177 of the federal Clean Air Act, the Low NOx rule proposed here is identical to California's. And, while a preemption waiver is not a prerequisite for adoption of the rule, U.S. EPA has, in fact, already granted California a waiver for the Low NOx rule, making the Low NOx rule enforceable in any state where the required two-year lead time has run—in Illinois, this would begin with model year 2029 if the rule is adopted this calendar year. Opponents of the rule, namely the Truck and Engine Manufacturers Association and the Illinois Corn Growers Association, argue that the Board should delay or deny adoption because either CARB's rule text might change or the federal waiver might be revoked at some unknown point in the future.[254] But these are purely speculative concerns and offer no legal or practical

[248] *Id.* at 61.
[249] *Id.*
[250] *Id.* IEPA criticizes ERM's modeling of costs of the Low NOx rule because it did not include a measure of costs-per-ton of emissions reduced as compared to the federal baseline rule. IEPA Comment at 59–60. It is true that ERM used projections for emissions reductions costs-per-ton of federal standards that would require similar technologies, so an estimate for the cost of emissions reductions is included in ERM's modeling. Hr. 1, Exh. 14, at 10–11. It is, however, entirely unclear why IEPA believes that specific datapoint must be modeled. IEPA raises no objection or question regarding the feasibility of implementing the Low NOx rule nor that it would deliver far greater benefits to the people of Illinois than whatever its precise compliance cost per ton of emissions reduction would be.
[251] Horton Comment.
[252] ICCT Comment at 4.
[253] *Id.*
[254] EMA Comment at 2–5; Corn Growers Comment 20–23.

reason to postpone a rule that will protect public health and serve as essential insurance against potential federal rollbacks.

First, regarding the rule text: opponents claim that Illinois risks adopting a standard that could be superseded if CARB modifies its regulations under an agreement with industry—specifically, the Clean Truck Partnership. But this argument is unpersuasive for several reasons. U.S. EPA's current deregulatory stance raises the real possibility that it may roll back its own federal 2023 standards—the very standards CARB tentatively agreed to align with. Indeed, CARB expressly conditioned its participation in the Clean Truck Partnership "provided the U.S. EPA does not make changes to its rule inconsistent with this Agreement."[255] Notably, EMA—a signatory to the Clean Truck Partnership—agreed to "support or not to oppose adoption of CARB's [Low NOx] regulations in any prospective Section 177 states," provided those standards apply to Model Year 2027 or later.[256] EMA's opposition here appears inconsistent with that commitment, and underscores the uncertainty of whether CARB will actually proceed with rule harmonization.

Moreover, CARB has not yet proposed—let alone finalized—amendments to harmonize its Low NOx rule with the current federal standards. Even if it did, those changes would require a new preemption waiver from U.S. EPA. Unless and until that occurs, the current version of Low NOx that Illinois would promulgate here would remain "identical to the California standards for which a waiver has been granted"[257] and therefore fully enforceable starting in the first covered model year. As a result, the concerns raised by opponents are hypothetical, uncertain if not unlikely to materialize, and—if they do—Illinois would have ample time to respond. By contrast, delaying adoption now would tie Illinois' hands due to the Clean Air Act's lead-time requirement and needlessly forfeit the state's ability to enforce stronger standards when they are most needed.

Second, regarding the waiver: as explained above in Section III, a waiver is not a prerequisite for adoption—only for enforcement. Its status therefore has no bearing on the Board's clear authority under federal and state law to adopt Low NOx. In any event, U.S. EPA has already issued a valid and effective waiver for California's Low NOx rule,[258] which is identical to the rule Illinois proposes to adopt beginning with model year 2029. If attempts were made to withdraw or nullify the Low NOx waiver at the federal waiver—as opponents suggest—the prudent course is for the Board to adopt the rule now so it is ready to be enforced in Illinois

[255] *Clean Trucks Partnership Between CARB, EMA, and the Undersigned Heavy-Duty On-Highway (HDOH) Manufacturer Members of EMA (the "OEMs")* (2023), at 2–3, ¶7, https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf (discussing CARB's withdrawal of its request for reconsideration of the 2023 federal standards) (*hereinafter* "Clean Trucks Partnership"), .

[256] Clean Trucks Partnership at Appendix D.

[257] *See* 42 U.S.C. § 7507.

[258] 90 Fed. Reg. 643 (Jan. 6, 2025) (U.S. EPA notice of decision for granting preemption waiver for Heavy-Duty Vehicle and Engine ''Omnibus'' Low NOX regulations).

when a court overturns that unlawful action or a future administration reinstates the waiver. There is no harm in having a temporarily unenforceable rule on the books—but real risk in doing nothing. Failing to act would leave Illinois vulnerable to federal rollbacks. And, in the not unlikely event U.S. EPA weakens its standards but cannot revoke the waiver,[259] Illinois' adoption of Low NOx would enable meaningful progress on deadly air pollution, potentially saving hundreds of lives each year.

VII. Conclusion

The record in this proceeding overflows with both evidence about the deadly effects of air emissions from on-road vehicles in Illinois and unsupported industry talking points stridently defending the status quo. IEPA has elected to ignore the former and to elevate the latter. But the Board must make its own decision under its statutory mandate to protect the people of Illinois from harmful air pollution. The Board should reject IEPA's preferred path of inaction in the face of a public health and climate crisis. Adopting the Rules will deliver the most net-benefits and best position Illinois to minimize the harms of potential changes at the federal level by initiating two-year implementation lead time now.

Though there are many issues implicated in this proceeding, at bottom, there are two questions being put to the Board: Does air pollution from on-road transportation harm the environment and public health of the people of Illinois? And, if so, what is the Board going to do about it? With the first question effectively uncontested, and the second addressed by a well-supported, lawful, and feasible proposal to protect public health in Illinois, the Board should adopt the Proposed Rules.

_____/s/_____

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[259] Earthjustice Comment at 3–6.

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APPENDIX A:

Rule Proponents' Responses to
IEPA's Suggested Edits to Non-Core Regulatory Terms of the Proposed Rules

In the final section of its post-hearing comments, IEPA raises specific questions and suggests potential adjustments to the text of the Proposed Rules, should the Board proceed to rule adoption. While Rule Proponents do not believe any changes are necessary for the reasons explained below, Rule Proponents generally do not oppose IEPA's requests for minor, non-substantive revisions, as they do not affect the core provisions of the rules or otherwise impact their basic operation.[260]

A. Section 242.104 – Prohibition

IEPA suggests that the term "person," as defined in the Proposed Rules, is overly broad as used in several provisions related to enforcement, and suggests that "person(s)" should be changed to "vehicle manufacturers."[261] As Rule Proponents have explained,[262] this change is unnecessary because vehicle manufacturers are the only "person[s]" upon whom the operative rule provisions impose any obligations or restrictions.[263] The broader term "person" is used in the specific "Prohibition" section, Section 242.104, to clearly prohibit individuals or dealers from circumventing the rules in the registration process.[264] Once an engine is certified as California-compliant by the manufacturer, that certification follows the vehicle when it is resold by dealers or individuals, so they need take no action beyond what is already done any time a vehicle changes hands.[265] This broad provision addresses concerns raised by IEPA and others about buyers evading the rules by purchasing non-compliant vehicles out of state and registering them in Illinois—even though, as California's experience shows, such behavior has not occurred

[260] Rule Proponents stand ready to prepare a new version of the Proposed Rules text that incorporates any of these IEPA suggestions that the Board deems appropriate to include in a final version of the Proposed Rules.
[261] IEPA Comment at 55.
[262] Hr. 2, Exh. 1, at 19–21. *See also* Hr. 1, Exh. 14, at 29.
[263] For example, Section 242.104 prevents vehicles which have not been certified to California emission standards from being registered in Illinois, but it does not place compliance obligations for certifying vehicles to the California standards on "persons" other than vehicle manufacturers. Hr. 2, Exh. 1, at 20.
[264] IEPA's request for clarification that the Secretary of State is responsible for registering vehicles in the State, *see* IEPA Comment at 58, is unnecessary in Rule Proponents view, but Rule Proponents would not object to its inclusion.
[265] For this reason, the concern expressed in Mercedes' post-hearing comments regarding "upfitters" that customize M/HDs and sell them on a secondary market is baseless. Post-Hearing Comment from James Fahy on behalf of Mercedes-Benz (P.C. #518) (Apr. 28, 2025) (*hereinafter* "Mercedes Comment"). The Board should further note that Mercedes-Benz's concerns about ACT ZEV sales requirements applying to upfitters are unfounded; other post-hearing comments have indicated that the M/HD classes generally sold to upfitters represent the segment of vehicles most suited to electrification. *See* Segall Comment at PDF 646–647.

in practice.[266] In other provisions, such as Section 242.106(a), IEPA's suggestion to substitute "vehicle manufacturers" for "person" is unnecessary but acceptable.

B. Section 242.105 – Exemptions

IEPA expresses concern that it is "unclear how such exemptions [under Section 242.105] are to be substantiated" when the Proposed Rules contain "no express requirement that documentation be provided."[267] This claim neglects to recognize the Secretary of State's authority to confirm "lawful" registration under 625 ILCS 5/2-110 and 3-405(a)(4), which already empowers the Secretary of State to request supplemental documentation as needed.[268] While not necessary, Rule Proponents do not object to the inclusion of language clarifying that the Secretary of State may require documentation that substantiates a claimed exemption under its existing authority.

C. Definitions in Section 242.101 and 102

IEPA requests clarification of several defined terms in Sections 242.101 (Purpose and Applicability) and 242.102 (Definitions). While Rule Proponents believe these changes are unnecessary for the reasons explained below, Rule Proponents do not oppose the clarifications suggested by the Agency.

- "All new"[269] – IEPA expresses concern that the term is overinclusive as used in Section 242.101(b), but this section functions only as a summary of the rules' general applicability and does not alone establish any binding requirements. As Rule Proponents indicated in their pre-filed answers from six months ago, "[i]f IEPA believes that a different general description of the rules' applicability in Section 242.101 would more accurately reflect the rules' operative provisions, Rule Proponents would not object…."[270]

- "Off-highway"[271] – IEPA suggests that "off-highway" as used in Section 242.102 and elsewhere is a confusing term. Rule Proponents submit this is a commonly understood term that excludes non-road vehicles like farm equipment—a

[266] IEPA argues that Rule Proponents' intent is irrelevant to the meaning of the proposed rules' provisions. IEPA Comment at 55. Rule Proponents agree that the proposed rules' text determines their meaning. But as with any regulation the agency tasked with implementing it (here, IEPA) exercises enforcement discretion. Rule Proponents' intent is that the rules will be able to capture and prevent circumvention of the standards through out of state registrations should it arise (consistent with the rules' text), but that IEPA will exercise its discretion not to enforce the rule against individuals absent such willful circumvention, consistent with the practice in every state to have adopted the rules. *See* Hr. Tr. at 125–126 (Dec. 3, 2024) (Rule Proponent witness Tom Cackette stating he is not aware of a single example of an individual or business being fined or prosecuted under the Proposed Rules in other states for purchasing a non-compliant vehicle).
[267] IEPA Comment at 59.
[268] *See* Hr. 2, Exh. 1, at 12.
[269] IEPA Comment at 53.
[270] Hr. 1, Exh. 14, at PDF 24.
[271] IEPA Comment 53–54.

particular concern of other commenters[272]—and helps clarify applicability. If IEPA has encountered difficulties around this precise phrasing, as it suggests in its comments, Rule Proponents invite IEPA to explain those issues and share its preferred language.[273] Rule Proponents would not object to clarifying suggestions.

- "Financial assistance program" / "lower-income consumers"[274] – IEPA objects to the definition of "financial assistance programs"—and the included term "lower-income consumers,"—because the section does not establish criteria for the Agency to develop such programs.[275] The definition in Section 242.102, which comes directly from CARB's rule, specifies the relevant criteria, *i.e.*, that the program must be a "point-of-sale incentive used for [ZEVs] and [PHEVs]."[276] The idea is to allow for flexibility in program development. If IEPA would like to discuss its assessment or development of potential programs, Rule Proponents stand ready to help the Agency. Rule Proponents note that the Agency's EV Coordinator—a position created by CEJA specifically to design and manage ZEV rebate programs designed to facilitate access for lower-income customers—is uniquely positioned to engage on this topic.[277]

- "Person"[278] – IEPA's concern here is addressed above in Rule Proponents' response regarding Section 242.104 – Prohibition.

- "Community-based clean mobility program"[279] – IEPA seeks clarification on how a "community-based clean mobility program" qualifies to allow for credit generation and which Illinois official has authority to make that determination. Both questions are addressed in the proposed regulatory text. Section 242.102 defines the term and sets out the criteria for qualification, while Section 242.103 clarifies that, for purposes of applying the incorporated California regulations, which describe the operation of community-based clean mobility programs in greater detail, references to CARB's highest-ranking officer "mean[s] the Director of the Illinois Environmental Protection Agency." As such, the IEPA Director or their designee may qualify such programs in Illinois, in response to applications properly submitted under 13 Cal. Code Regs., Title 1962.4(e)(2)(A) and which meet the criteria therein, which is already incorporated by reference in the

[272] *See* Post-Hearing Comment of the Illinois Corn Growers Association (P.C. #480) at 8 (Apr. 25, 2025) (*hereinafter* "Corn Growers Comment") (describing that EVs may be unfit for "heavy farmwork").
[273] IEPA Comment at 54 n.18.
[274] *Id.* at 54.
[275] *Id.*
[276] Hr. 1, Exh. 1, at 229–31 (proposed revisions for 35 Ill. Adm. Code 242.102).
[277] 20 ILCS 627/15 (2024).
[278] IEPA Comment at 55.
[279] *Id.* at 55–56.

Proposed Rules. Rule Proponents are open to further clarification if IEPA believes it is necessary.

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' Responsive Comment; and Certificate of Service, by e-mail upon the following individuals listed at the e-mail addresses indicated:

TO:

Don Brown Clerk of the Board Illinois Pollution Control Board 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov	Vanessa Horton & Carlie Leoni Hearing Officers Illinois Pollution Control Board 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 Vanessa.Horton@Illinois.gov Carlie.Leoni@Illinois.Gov
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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 50.
That the e-mail transmission took place before 5:00 p.m. on the date of May 16, 2025.

Date: May 16, 2025

Respectfully submitted,

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