

Illinois Environmental Regulatory Group

2008 Accomplishments

The **Illinois Environmental Regulatory Group** is a non-profit corporation organized to promote and advance the interests of its Members, which include companies engaged in industry, commerce, manufacturing, agriculture, trade, energy and transportation, that are regulated by the State of Illinois. IERG's mission is to

- Represent Members before governmental agencies, primarily the Illinois Environmental Protection Agency and Illinois Pollution Control Board.
- Negotiate environmental policies, laws, and regulations in the course of promulgation, administration and implementation activities.
- Provide sound and technically defensible input early in the regulatory and legislative processes to leverage favorable outcomes in environmental agency proceedings.

IERG organizes regulatory policies and problems by topical area referenced as issue specific projects; and provides real-time reporting on emerging state and federal issues via email and quarterly meetings, during which Members discuss strategies to address mutual concerns.



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ILLINOIS CHAMBER
OF COMMERCE

Water Quality Standards

- While to date, Illinois EPA has been unable to identify a relationship between nutrient concentrations and biological impairments, IERG represented Members' interests in its outreach efforts to develop a nutrients standard for Illinois' waters.
- IERG explained to Members the new dissolved oxygen standard, a seasonal two-tiered approach, adopted by the Board; and represented the regulated community's interests in the Board's rulemaking process.
- Participation in the Board's Chicago Area Waterway System ("CAWS") rulemaking continues. Working in the background with Illinois EPA, IERG sought to reach consensus and resolve Members' issues surrounding bacteria, dissolved oxygen, ammonia, and chloride standards by proposing possible alternatives and options.
- IERG successfully convinced Illinois EPA to revise its groundwater quality standards proposal to remove molybdenum, and to address Members' concerns regarding the use of solubility to derive the standards. IERG further raised concerns before the Board about the potential adverse impact of the proposal on the continued use of coal combustion byproduct, and on the inclusion of certain chemicals for regulation state-wide despite being detected infrequently or occurring only at limited sites.
- During the Board's procedure to amend the sulfate rule, IERG noted Illinois EPA's deficiency in supporting the economic reasonableness of its proposal, a not uncommon practice. On completion of the proceeding, IERG provided a detailed summary of the impacts of the final standards on Members' operations.

Diverse Regulation and Legislation

- Following remand of key provisions of USEPA's Phase II 316(b) rule, IERG negotiated language with Illinois EPA to address concerns related to industry's ability to comply with the remaining provisions, which the Agency agreed to insert into Members' NPDES permits at renewal.
- IERG advanced the interests of business, industry and power generation in both the North-Eastern and East-Central Illinois Regional Water Supply Planning Groups, formed by the Governor to address issues surrounding the potential regulation of water quantity. IERG provided substantive, and well-received, comments on the groups' studies that initially mischaracterized utility and industrial impacts on future demand.
- IERG closely followed and reported on several issues potentially impacting the regulated community: 1) the Board's decision to remand the Village of New Lenox's NPDES permit for failure to address anti-degradation concerns; 2) court action regarding Illinois EPA's obligation to conduct a public hearing for a proposed NPDES permit; 3) Illinois EPA's *Illinois Integrated Water Quality Report and Section 303(d) List - 2008*; 4) Illinois EPA's Bureau of Water Annual Hearing; and 5) New General NPDES permits for stormwater discharges from construction site activities and industrial discharges.

NO_x RACT Rule

Since 2005 IERG has actively engaged in Illinois EPA's outreach efforts to develop its NO_x RACT proposal. IERG's leadership made an impact on the contents of the proposed rule, as filed with the Illinois Pollution Control Board on May 9, 2008. Specifically, IERG

- Maintained the position that the rule need not apply statewide, but only in the ozone nonattainment areas of the state, a position with which Illinois EPA ultimately agreed.
- Conducted a Nationwide Survey of NO_x RACT Implementation to support IERG's argument that the emissions limits proposed by Illinois EPA were beyond RACT, and offered feasible, alternative limits that would meet the federal requirements.
- Asserted that new, replacement units for any shutdowns should be allowed under averaging plans, even if their size and capacity exceed that of the units replaced, to encourage efficiency while not resulting in increased emissions.
- Suggested that units be allowed to monitor in accordance with 40 CFR Part 60 unless 40 CFR Part 75 monitoring is otherwise required by a federal or state regulation.
- Advocated for case-by-case RACT determination through the permitting process.
- Offered that sources subject to Illinois' CAIR and CAMR be deemed to meet USEPA's ozone NO_x RACT requirements.
- Urged that the compliance date be harmonized with proposed limits to allow potentially significant control technology to be planned, budgeted, scheduled, permitted, constructed and tested within the given time frame.
- Continues to perform detailed analysis of the proposal as changes are made during the rulemaking procedure to ensure specific provisions address Members' capabilities.

Subpart Q

IERG's efforts were apparent in the decision to split the Proposed Rule - *NOx Emissions for Stationary Reciprocating Internal Combustion Engines and Turbines* into two dockets – one pertaining to units covered under Phase II of the NOx SIP Call, which was fast-tracked; the other to non-Phase II units. Throughout the rulemaking, IERG worked to insure the proposal addressed Members' concerns, and successfully reached agreement with Illinois EPA to limit applicability to the nonattainment areas, push back the compliance date from May of 2009 to 2010, and offer flexible compliance options. Key improvements IERG advocated included:

- The new emissions threshold for applicability be counted on a source-wide basis.
- Defining "emergency or standby unit" to include operating 50 hours per year for non-emergency and non-maintenance purposes, to mirror federal definitions.
- Preserving NOx emissions reduction in qualifying netting or offset situations.
- Allowing averaging across all units affected by other Part 217 provisions.
- A low-use option.
- Allowing sources to use the marketplace for NOx emissions allowances when compliance difficulties arise.

NOx SIP Call Rule (Subpart U)

Illinois EPA began 2008 stating its intent to replace Subpart U with a facility cap on NOx emissions, eliminating the NOx Budget cap and trade program imposed by the NOx SIP Call. Because Members overwhelmingly support continuation of trading, IERG met with Illinois EPA to express the importance of trading. IERG

- Emphasized the substantial reductions achieved to demonstrate the benefit of trading.
- Drafted a proposed rule to replace Part 217 Subpart U for a NOx Ozone Season program for non-EGUs to be operated under CAIR, to be shared with Illinois EPA for concurrence.

Ozone SIP Submittal

Recognizing it was in Members' best interest to expedite the process, IERG

- Stepped forward with recommendations to facilitate lending its support to the Chicago-area Attainment SIP, to avoid potential sanctions associated with USEPA's notice of deficiency for Illinois' failure to submit the required SIP.

New Ozone Standard

Aware of the possibility for regulation into newly expanded areas, IERG

- Alerted Members, using detailed, analytical spreadsheets, of the impact of USEPA's tightened ozone standard of 0.075 ppm on the State of Illinois.
- Kept Members up-to-date on the status of pending lawsuits filed, by both regulated industries and the environmental community, challenging the stringency of the standard.

Fine Particulate Attainment (PM_{2.5})

IERG filed comments opposing USEPA's proposal to designate two Illinois counties as nonattainment for PM_{2.5}. In doing so, IERG

- Thoroughly reviewed data to confirm emissions stemmed from a localized source in Rock Island County, and were attributable to wildfires in Massac County's case.
- Supported Illinois EPA in contesting the proposed designation.

Miscellaneous Air Issues

IERG provided leadership, advocating for industry on diverse regulatory and legislative matters:

- Contributed funding to the Midwest Ozone Group's alternative modeling efforts, successfully using information garnered to impact rulemaking by demonstrating that less stringent controls would achieve Illinois EPA's desired emissions reductions.
- Successfully argued before the Board that Illinois EPA's proposed Consumer Products Rule was improperly based on technical support for an earlier version, thus preserving precedent that Illinois EPA must accurately and adequately document the technological feasibility and economic reasonableness of a rule.
- Represented Members' interests relative to the impact of using NACAA limits to implement Section 112(j): Boiler MACT.
- Apprised Members of court actions regarding such issues as vacatur of CAIR and CAMR, USEPA's assessment of revocation of the one-hour ozone standard and the impact on NSR, and Illinois EPA's proposed changes to its air quality standards rule.

CLIMATE CHANGE & SUSTAINABILITY-RELATED ISSUES — Patricia A. Ludewig, Caterpillar, Inc., Chair

IERG-42 was created in anticipation of greenhouse gas regulation, and to meet public demand to implement sustainable practices. IERG

- Informed Members of the activities of the Midwestern Greenhouse Gas Reduction Accord Advisory Group (“MGGRA”). MGGRA’s goal is to develop and adopt a model rule to reduce greenhouse gas emissions. Members’ concerns range from the limited number of state participants, possible legal issues and modeling to implementation costs.
- Apprised Members of federal climate change regulation activities, including USEPA’s July publication, “Advance Notice of Proposal and Rulemaking: Regulating Greenhouse Gas Emissions under the Clean Air Act” (73 FR 44354).

LAND-RELATED ISSUES (ERG-21) — Brian H. Martin, Ameren, Chair

Tiered Approach to Corrective Action Objectives (“TACO”)

- IERG worked with the Site Remediation Advisory Committee and Illinois EPA on amendments to the TACO regulations, which sought to address the potential for vapors from volatile chemicals to enter into a building located above contaminated soil or groundwater.
- In the legislative arena, IERG worked to insure the language of Illinois EPA’s proposed Uniform Environmental Covenants Act provided assurance that landowners would be adequately informed of and involved in any potential action or impact on private property.

ADVISOR TO THE ILLINOIS CHAMBER OF COMMERCE

IERG, as environmental adviser to the Chamber, analyzed legislation, provided background information, and drafted statutory language for use with the Illinois General Assembly. IERG’s Chairman served in an active capacity on the Chamber Board of Directors.

IERG ACTIVITIES IN 2008 RULEMAKINGS

| Rulemaking | Participated in Outreach Efforts | Provided Testimony | Offered Comments to the Board | Pre-Filed Questions | Participated at Hearing | Summarized Details of Rule | Filed Response to Filings |
|---------------------------------|----------------------------------|--------------------|-------------------------------|---------------------|-------------------------|----------------------------|---------------------------|
| WATER | | | | | | | |
| Nutrients | ● | | | | | | |
| Dissolved Oxygen (R04-25) | | | | | | ● | |
| CAWS (R08-09) | ● | | | ● | ● | ● | |
| Sulfate (R07-09) | | | ● | | | ● | ● |
| Groundwater (R08-18) | ● | ● | ● | | ● | ● | |
| LAND | | | | | | | |
| TACO, Vapor Intrusion (R09-09) | ● | | | ● | | ● | |
| AIR | | | | | | | |
| Subpart Q (R07-19) | | ● | ● | | ● | ● | ● |
| NOx RACT (R08-19) | ● | ● | | ● | ● | ● | |
| NOx SIP Call Subpart U (R06-22) | ● | | | | | ● | |
| Consumer Products (R08-17) | ● | | | | ● | ● | ● |



Illinois Environmental Regulatory Group

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