OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

September 19, 2018

Via Electronic & U.S. Mail  
The Honorable John F. Curran  
State Senator  
7501 Lemont Road, Suite 315G  
Woodridge, Illinois 60517  

The Honorable Dan Cronin  
Chairman, DuPage County Board  
421 N. County Farm Road  
Wheaton, Illinois 60187

The Honorable Jim Durkin  
House Republican Leader  
16W281 83rd Street, Suite C  
Burr Ridge, Illinois 60527

Re: Illinois EPA’s Refusal to Provide Sterigenics’ Information to the Office of the Illinois Attorney General

Dear Senator Curran, Leader Durkin and Chairman Cronin:

I am writing to inform you that the Illinois Environmental Protection Agency (IEPA) is refusing to cooperate with our office and provide basic background information that is necessary for our review of the serious public health and environmental threat posed by the Sterigenics facility in Willowbrook.

As you know, on August 27th, through a report issued by the federal Agency for Toxic Substances and Disease Registry, we learned about the increased cancer risks created by the emissions from Sterigenics. We immediately assigned senior members of our Environmental Enforcement Division to review this matter. In addition, our lawyers attended the August 29th public meeting in Willowbrook, and spoke at length with Senator Curran on August 30th.

Immediately after that, on August 31st, we sent a request to IEPA for documents as part of our review of Sterigenics’ emissions. The email is attached. In addition to seeking the applications for the permits that allow Sterigenics to emit pollution, we asked for Sterigenics’ annual emission reports for the years 1995 to 2017. The annual emission reports should detail the amount of Ethylene Oxide, a human carcinogen, released into the community adjacent to the Sterigenics’ site. Our request was specific and limited. IEPA could and should have provided these documents to us quickly.

Instead, IEPA treated our authority to review documents as part of our environmental enforcement work as a Freedom of Information Act request and took over two weeks to respond. On September 17th, IEPA’s FOIA officer responded, indicating that the agency was denying our request for Sterigenics’ annual emissions reports from 1996 to 2008. The response is attached.
As the lawyers for the People and the State of Illinois, as well the only lawyers authorized by the Constitution and laws of the State to represent IEPA in court, IEPA’s decision to treat a request for documents from the Environmental Enforcement Division of the Office of the Attorney General as a FOIA request is absurd. IEPA’s decision is also blatantly contrary to the Illinois Environmental Protection Act, 415 ILCS 5/7. Section 7(e) of that Act provides:

(e) Notwithstanding any other provisions of this Title, or any other law to the contrary, any information accorded confidential treatment may be disclosed or transmitted to other officers, employees or authorized representatives of this State or of the United States concerned with or for the purposes of carrying out this Act or federal environmental statutes and regulations; provided, however, that such information shall be identified as confidential by the Agency, the Board, or the Department, as the case may be. Any confidential information disclosed or transmitted under this provision shall be used for the purposes stated herein.1

On September 18th, our lawyers contacted IEPA Director Messina to ask why IEPA refused to provide us with over 10 years of emissions reports in a matter that raises serious public health concerns. Director Messina informed us that IEPA withheld the documents because Sterigenics marked them as “confidential business information” when submitting them to IEPA. Director Messina indicated that IEPA was in contact with Sterigenics’ counsel to seek Sterigenics’ approval to waive any claim of “confidential business information.” In sum, IEPA has left the decision on whether to provide emissions reports to the Attorney General’s Office to the company that has been and continues to release toxic chemicals into a populated community in DuPage County. In over 30 years of working as Assistant Attorneys General, our senior environmental enforcement attorneys cannot recall an instance in which IPEA refused to provide our office with air pollution emissions data based on the preposterous claim that it is “confidential business information.”

I am sharing with you our concerns about IEPA’s refusal to cooperate because, on September 7th, Senator Curran and Chairman Cronin wrote to Attorney General Madigan asking that we “work with Illinois Environmental Protection Agency to take legal action to revoke Sterigenics Air Permit.” We agree that the State needs to take all possible steps to protect the residents and the environment impacted by Sterigenics. We ask that you assist us by contacting IEPA or Governor Rauner’s Office to demand that IEPA cooperate with our Office on this important environmental enforcement matter.

Sincerely,

Ann M. Spillane
Chief of Staff

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1 Even putting aside the clear language of section 7(e), sections 7(a) and (c) of the Illinois Environmental Protection Act make clear that air pollution emission data “shall be available to the public.” 415 ILCS 5/7(a) and (c).
September 17, 2018

Office of The Illinois Attorney General
Attn: Ms. Elizabeth Wallace
69 W Washington St
18th Floor
Chicago, IL 60602

Re: Freedom of Information Act Request - 105470

Dear Ms. Wallace:

This letter is in response to your Freedom of Information Act (FOIA) (5 ILCS 140/1 et seq.) request dated August 31, 2018 and received by the Illinois Environmental Protection Agency (Illinois EPA) on August 31, 2018.

After reviewing the Illinois EPA’s files, and pursuant to Section 7 of FOIA and 2 Ill. Adm. Code 1828.202, the Illinois EPA has determined that some of the public records requested are exempt from disclosure under FOI; in addition, the Illinois EPA has determined that some the public records requested are presently exempt from disclosure under FOIA due to a pending claim of exemption from public disclosure. A list of the public records that are exempt from disclosure will be enclosed, including a detailed factual basis for why an exemption is being claimed. Pursuant to Section 9.5 of FOIA and 2 Ill. Adm. Code 1828.505, you may file a request for review with the Public Access Counselor (PAC) established in the Office of the Attorney General no later than 60 days after the date of the Illinois EPA’s final denial. Contact information for the PAC is as follows:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone: 312-814-5526 or
1-877-299-FOIA (1-877-299-3642)
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us
You also have the right to seek judicial review of the denial of your request by filing a lawsuit in circuit court, pursuant to 5 ILCS 140/11.

The public records that are not exempt from disclosure are described below.

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<th>Requested Information – Sterigenics US LLC – 7775 Quincy St, Willowbrook</th>
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<tbody>
<tr>
<td>1. Annual Emissions Reports from 1995 – 2017</td>
</tr>
<tr>
<td>2. Permit application for 2015 permit 95120085</td>
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<tr>
<td>3. Permit application for 2017 draft permit 17070029</td>
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The information responsive to your request is being sent using the State of Illinois CMS file transfer utility. An email message will shortly follow this response that will contain a link allowing you to download the information. Please download the information at your earliest convenience as the link will expire in five (5) days.

Thank you for your patience in this matter.

Sincerely,

[Signature]

Anwar Johnson
Illinois EPA
FOIA Officer
217.558.5101
http://www.epa.illinois.gov/foia/index

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.
Hi John,

We would like to have a briefing from IEPA regarding Sterigenics - background on permits, what’s next with respect to permitting, etc. Additionally, please provide us with all relevant documents, including the following (we have the CAAPP, the construction and the draft 2017 permits, and the stack test protocol):

1. Permit applications for the 2015 permit and the 2017 draft permit; and
2. AERs for the years 1995 through 2017.

Please let us know when your group would be available to talk with us. As you know, I’ll be out next week but Matt and Daniel Rottenberg will be available. Thanks John.

Beth

Elizabeth Wallace, Chief
Environmental Bureau / Chicago
Office of the Illinois Attorney General
69 W. Washington St., 18th Flr.
Chicago, IL  60602
(312)814-5396
(312)814-2347 (fax)
ewallace@atg.state.il.us
### Illinois EPA FOIA Exempt Document List

**Agency ID:** 170000075246  
**Bureau ID:** 043110AAC  
**Site Name:** Sterigenics US LLC  
**Site Address1:** 7775 Quincy St  
**State:** IL  
**Zip:** 60527-5531

#### FOIA Exempt Records

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Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.

**BANK ACCOUNT NUMBERS**

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Commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential.

**INFORMATION EXEMPTED PENDING CONFIDENTIALITY CLAIM REVIEW**