



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 Jim Durkin  
House Republican Leader  
16W281 83<sup>rd</sup> Street, Suite C  
Burr Ridge, Illinois 60527

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

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 27<sup>th</sup>, 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 29<sup>th</sup> public meeting in Willowbrook, and spoke at length with Senator Curran on August 30<sup>th</sup>.

Immediately after that, on August 31<sup>st</sup>, 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 17<sup>th</sup>, 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.

The Honorable John F. Curran  
The Honorable Dan Cronin  
The Honorable Jim Durkin  
September 19, 2018  
Page 2

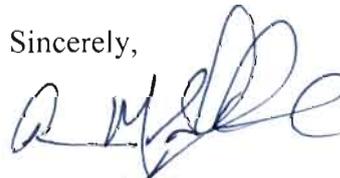
As the lawyers for the People and the State of Illinois, as well the only lawyers authorized by the Constitution and laws of the State to represent IEPA in court, IEPA's decision to treat a request for documents from the Environmental Enforcement Division of the Office of the Attorney General as a FOIA 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.<sup>1</sup>

On September 18<sup>th</sup>, 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 7<sup>th</sup>, 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

---

<sup>1</sup> 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).

**From:** Dowson, Sharon [mailto:Sharon.Dowson@Illinois.gov]  
**Sent:** Monday, September 17, 2018 3:14 PM  
**To:** Wallace, Elizabeth <EWallace@atg.state.il.us>  
**Subject:** Illinois EPA FOIA Response



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

**BRUCE RAUNER, GOVERNOR**

**ALEC MESSINA, DIRECTOR**

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](mailto: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.

<b>Requested Information – Sterigenics US LLC – 7775 Quincy St, Willowbrook</b>
---

- |  |
|--|
| <ol style="list-style-type: none"><li>1. Annual Emissions Reports from 1995 – 2017</li><li>2. Permit application for 2015 permit 95120085</li><li>3. Permit application for 2017 draft permit 17070029</li></ol> |
|--|

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,



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.

**From:** Wallace, Elizabeth  
**Sent:** Friday, August 31, 2018 4:42 PM  
**To:** [John.J.kim@illinois.gov](mailto:John.J.kim@illinois.gov)  
**Cc:** Dunn, Matthew; Rottenberg, Daniel  
**Subject:** Sterigenics - request for docs and call.

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., 18<sup>th</sup> Flr.  
Chicago, IL 60602  
(312)814-5396  
(312)814-2347 (fax)  
[ewallace@atg.state.il.us](mailto: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  
Site Address2:  
Site City: Willowbrook

Media File Type: AIR

SID: 29119

State: IL

Zip: 60527-5531

---

## FOIA Exempt Records

---

**Exempt Doc #:** 12 **Document Date:** 8 /4 /2017 **Document Description:** PERMIT FEE PAYMENT (CHECK)  
**Category ID:** 03M **Category Description:** AIR PERMIT - CONSTRUCTION/JOINT **Exempt Type:** Redaction  
**Permit ID:** 17070029 **Staff:** JRM **Date of Determination:** 8 /18/2017  
**Exemption:** 5 ILCS 140/7(1)(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.  
BANK ACCOUNT NUMBERS

---

**Exempt Doc #:** 14 **Document Date:** 9 /17/2018 **Document Description:** ANNUAL EMISSIONS REPORTS FROM 1996-2008 (VARIOUS DOCUMENTS)  
**Category ID:** 10G **Category Description:** ANNUAL EMISSIONS REPORTS **Exempt Type:** Exempt in Whole  
**Permit ID:** **Staff:** SSD **Date of Determination:** 9 /17/2018  
**Exemption:** 5 ILCS 140/7(1)(g)-CBI 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