

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY



700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
(217) 785-2254

MEMORANDUM

TO: Richard McGill
Illinois Pollution Control Board

FROM: Kim Schultz
Joint Committee on Administrative Rules

DATE: 4/12/23

RE: Permits and General Provisions (35 Ill. Adm. Code 201; 46 Ill. Reg. 20627) Second Notice Filing

****Via Email (Richard.McGill@Illinois.gov) and U.S. Mail****

Dear Mr. McGill:

The Joint Committee on Administrative Rules (JCAR) received the Board's Second Notice filing for the above-referenced rulemaking on 4/10/23. Thank you for submitting these materials.

Upon receipt of a Second Notice filing, JCAR staff reviews the filing in accordance with the procedures established in 1 Ill. Adm. Code 220. Unfortunately, it appears the Board did not include all of the information required by 1 Ill. Adm. Code 220.600 and therefore the Second Notice filing cannot be accepted.

Specifically, the Second Notice filing is missing:

- An evaluation of all comments received by the agency concerning the proposed rulemaking during the first notice period pursuant to Section 5-100(e)(2) of the Act. The evaluation must include the following information:
 - A list of **specific** criticisms, suggestions, and comments raised by interested persons, and the **agency's analysis of each of these criticisms, suggestions and comments**. 1 Ill. Adm. Code 220.600(a)(9).

Although the Board briefly summarized the topic of the comment received, the filing does not appear to contain the specifics of each comment, nor the Board's evaluation or analysis any of the comments. The failure of an agency to evaluate, pursuant to this Section [1 Ill. Adm. Code

220.600], the comments received will be deemed to be an incomplete second notice. While we are eager to read the all comment and analysis, we are particularly interested in hearing the Board's views on whether the use of "Fast-Track" rulemaking is appropriate in this instance.

Additionally, the Board's Analysis of Economic and Budgetary Effects response (2)(a) states: "the proposed rule will not have any economic impact as the rule will not alter any restrictions, requirements or incentives for Illinois residents or businesses." While an answer is provided, is the answer correct? The Board noted in it its Notice of Proposed Amendments that "any small business that holds an air permit allowing emissions from equipment that malfunctions or that may start-up" would be affected by the rulemaking. See Notice of Proposed Amendments (13)(A) 46 Ill. Reg. 20628. It seems, based on the notice page and text of the rulemaking, that business requirements (whether small businesses or not) are in fact altered within the rulemaking, and those alterations could have an economic impact. We encourage the Board to revisit this response as we rely on the Board to assist us in understanding how businesses (small and large) are impacted by its administrative rule changes.

It appears the Board requested the DCEO Business Assistance Office prepare an impact analysis for this rulemaking. To date, we have not received a copy of DCEO's Business Assistance Office impact analysis, which is required to be completed before or within the notice period as described in subsection (b) of Section 5-40 of the Illinois Administrative Procedure Act. See 5 ILCS 100/5-30. Can the Board share a copy with us?

Lastly, there are two stylistic changes that might make this document more accessible to general readers. First, we noticed that this filing did not include the number of the PCB docket to which readers were implicitly referred for a copy of the full Board order. Second, the acronym "SSM" is used throughout the comment section but is never spelled out. Addressing these items would aid in our evaluation of the filing and the rulemaking in general.

The Board may correct the omissions identified this letter and resubmit the Second Notice filing to JCAR at any time. If you have any further questions, or need any additional information, please do not hesitate to contact us at 217-785-2254. Jonathan and I are happy to assist you on this topic.

cc: Jonathan Eastvold, JCAR
Shannon O. Bilbruck (Shannon.O.Brilbruck@Illinois.gov), PCB
Tim Fox (Tim.Fox@illinois.gov), PCB

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MEMORANDUM

TO: Richard McGill
Illinois Pollution Control Board

FROM: Kim Schultz
Joint Committee on Administrative Rules

DATE: 4/12/23

RE: Alternative Control Strategies (35 Ill. Adm. Code 202; 46 Ill. Reg. 20638) Second Notice Filing

****Via Email (Richard.McGill@Illinois.gov) and U.S. Mail****

Dear Mr. McGill:

The Joint Committee on Administrative Rules (JCAR) received the Board's Second Notice filing for the above-referenced rulemaking on 4/10/23. Thank you for submitting these materials.

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 - A list of **specific** criticisms, suggestions, and comments raised by interested persons, and the **agency's analysis of each of these criticisms, suggestions and comments**. 1 Ill. Adm. Code 220.600(a)(9).

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220.600], the comments received will be deemed to be an incomplete second notice. While we are eager to read the all comment and analysis, we are particularly interested in hearing the Board's views on whether the use of "Fast-Track" rulemaking is appropriate in this instance.

Additionally, the Board's Analysis of Economic and Budgetary Effects response (2)(a) states: "the proposed rule will not have any economic impact as the rule will not alter any restrictions, requirements or incentives for Illinois residents or businesses." While an answer is provided, is the answer correct? The Board noted in it its Notice of Proposed Amendments that "any small business that holds an air permit allowing emissions from equipment that malfunctions or that may start-up" would be affected by the rulemaking. See Notice of Proposed Amendments (13)(A) 46 Ill. Reg. 20639. It seems, based on the notice page and text of the rulemaking, that business requirements (whether small businesses or not) are in fact altered within the rulemaking, and those alterations could have an economic impact. We encourage the Board to revisit this response as we rely on the Board to assist us in understanding how businesses (small and large) are impacted by its administrative rule changes.

It appears the Board requested the DCEO Business Assistance Office prepare an impact analysis for this rulemaking. To date, we have not received a copy of DCEO's Business Assistance Office impact analysis, which is required to be completed before or within the notice period as described in subsection (b) of Section 5-40 of the Illinois Administrative Procedure Act. See 5 ILCS 100/5-30. Can the Board share a copy with us?

Lastly, there are two stylistic changes that might make this document more accessible to general readers. First, we noticed that this filing did not include the number of the PCB docket to which readers were implicitly referred for a copy of the full Board order. Second, the acronym "SSM" is used throughout the comment section but is never spelled out. Addressing these items would aid in our evaluation of the filing and the rulemaking in general.

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cc: Jonathan Eastvold, JCAR
Shannon O. Bilbruck (Shannon.O.Brilbruck@Illinois.gov), PCB
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MEMORANDUM

TO: Richard McGill
Illinois Pollution Control Board

FROM: Kim Schultz
Joint Committee on Administrative Rules

DATE: 4/12/23

RE: Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212; 46 Ill. Reg. 20644) Second Notice Filing

****Via Email (Richard.McGill@Illinois.gov) and U.S. Mail****

Dear Mr. McGill:

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Additionally, the Board's Analysis of Economic and Budgetary Effects response (2)(a) states: "the proposed rule will not have any economic impact as the rule will not alter any restrictions, requirements or incentives for Illinois residents or businesses." While an answer is provided, is the answer correct? The Board noted in it its Notice of Proposed Amendments that "any small business that holds an air permit allowing emissions from equipment that malfunctions or that may start-up" would be affected by the rulemaking. See Notice of Proposed Amendments (13)(A) 46 Ill. Reg. 20645. It seems, based on the notice page and text of the rulemaking, that business requirements (whether small businesses or not) are in fact altered within the rulemaking, and those alterations could have an economic impact. We encourage the Board to revisit this response as we rely on the Board to assist us in understanding how businesses (small and large) are impacted by its administrative rule changes.

It appears the Board requested the DCEO Business Assistance Office prepare an impact analysis for this rulemaking. To date, we have not received a copy of DCEO's Business Assistance Office impact analysis, which is required to be completed before or within the notice period as described in subsection (b) of Section 5-40 of the Illinois Administrative Procedure Act. See 5 ILCS 100/5-30. Can the Board share a copy with us?

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Tim Fox (Tim.Fox@illinois.gov), PCB