

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Permits and General Provisions

Code Citation: 35 Ill. Adm. Code 201

Section Numbers: 201.149 201.261 201.263 201.265
201.157 201.262 201.264 201.301

Date Originally Published in the Illinois Register: 12/30/22
46 Ill. Reg. 20627

At its meeting on 7/18/23, the Joint Committee on Administrative Rules objected to the Pollution Control Board's rulemaking titled Permits and General Provisions (35 Ill. Adm. Code 201; 46 Ill. Reg. 20627), for failure to consider the economic effects of the rulemaking upon those regulated and for failure to consider less costly alternatives as required by 1 Ill. Adm. Code 220.900(a)(2)(B) and (C). Further, JCAR object to the Illinois Environmental Protection Agency's use of fast-track rulemaking to correct a deficiency the U.S. Environmental Protection Agency identified on June 12, 2015. USEPA first indicated that Illinois' start-up, shutdown, and malfunction provisions were inconsistent with the federal Clean Air Act in 2015, but the current rulemaking was not released to the impacted industry representatives until November 2022. Throughout the process, the Illinois Environmental Protection Agency and Pollution Control Board have cited the impending federal deadline and associated sanctions as reasons that stakeholders' alternative emissions limitation proposals cannot be considered. However, IEPA had more than enough time to address this situation and engage fully with commenters and their alternative proposals. By waiting to comply with the federal requirements until 2022, the Agency created a situation that could only be remedied in time to meet the federal sanctions deadline by using the fast-track process, and prevented the consideration of less costly alternative proposals. JCAR recommends IEPA respond to federal deficiency findings in a timely manner, well before mandatory sanctions are imposed, by proactively engaging stakeholders on solutions and providing stakeholders sufficient time to review compliance proposals without using the fast track process. JCAR asks that the Board and IEPA report back to JCAR at JCAR's August meeting in Springfield on the progress of the subdocket for stakeholders' alternative proposals.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Alternative Control Strategies

Code Citation: 35 Ill. Adm. Code 202

Section Numbers: 201.107 202.211

Date Originally Published in the Illinois Register: 12/30/22
46 Ill. Reg. 20638

At its meeting on 7/18/23, the Joint Committee on Administrative Rules objected to the Pollution Control Board's rulemaking titled Alternative Control Strategies (35 Ill. Adm. Code 202; 46 Ill. Reg. 20638), for failure to consider the economic effects of the rulemaking upon those regulated and for failure to consider less costly alternatives as required by 1 Ill. Adm. Code 220.900(a)(2)(B) and (C). Further, JCAR object to the Illinois Environmental Protection Agency's use of fast-track rulemaking to correct a deficiency the U.S. Environmental Protection Agency identified on June 12, 2015. USEPA first indicated that Illinois' start-up, shutdown, and malfunction provisions were inconsistent with the federal Clean Air Act in 2015, but the current rulemaking was not released to the impacted industry representatives until November 2022. Throughout the process, the Illinois Environmental Protection Agency and Pollution Control Board have cited the impending federal deadline and associated sanctions as reasons that stakeholders' alternative emissions limitation proposals cannot be considered. However, IEPA had more than enough time to address this situation and engage fully with commenters and their alternative proposals. By waiting to comply with the federal requirements until 2022, the Agency created a situation that could only be remedied in time to meet the federal sanctions deadline by using the fast-track process, and prevented the consideration of less costly alternative proposals. JCAR recommends IEPA respond to federal deficiency findings in a timely manner, well before mandatory sanctions are imposed, by proactively engaging stakeholders on solutions and providing stakeholders sufficient time to review compliance proposals without using the fast track process. JCAR asks that the Board and IEPA report back to JCAR at JCAR's August meeting in Springfield on the progress of the subdocket for stakeholders' alternative proposals.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Visible and Particulate Matter Emissions

Code Citation: 35 Ill. Adm. Code 212

Section Numbers: 212.124 212.324

Date Originally Published in the Illinois Register: 12/30/22
46 Ill. Reg. 20644

At its meeting on 7/18/23, the Joint Committee on Administrative Rules objected to the Pollution Control Board's rulemaking titled Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212; 46 Ill. Reg. 20644), for failure to consider the economic effects of the rulemaking upon those regulated and for failure to consider less costly alternatives as required by 1 Ill. Adm. Code 220.900(a)(2)(B) and (C). Further, JCAR object to the Illinois Environmental Protection Agency's use of fast-track rulemaking to correct a deficiency the U.S. Environmental Protection Agency identified on June 12, 2015. USEPA first indicated that Illinois' start-up, shutdown, and malfunction provisions were inconsistent with the federal Clean Air Act in 2015, but the current rulemaking was not released to the impacted industry representatives until November 2022. Throughout the process, the Illinois Environmental Protection Agency and Pollution Control Board have cited the impending federal deadline and associated sanctions as reasons that stakeholders' alternative emissions limitation proposals cannot be considered. However, IEPA had more than enough time to address this situation and engage fully with commenters and their alternative proposals. By waiting to comply with the federal requirements until 2022, the Agency created a situation that could only be remedied in time to meet the federal sanctions deadline by using the fast-track process, and prevented the consideration of less costly alternative proposals. JCAR recommends IEPA respond to federal deficiency findings in a timely manner, well before mandatory sanctions are imposed, by proactively engaging stakeholders on solutions and providing stakeholders sufficient time to review compliance proposals without using the fast track process. JCAR asks that the Board and IEPA report back to JCAR at JCAR's August meeting in Springfield on the progress of the subdocket for stakeholders' alternative proposals.

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