

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. BILL CUNNINGHAM

CO-CHAIR:
REP. RYAN SPAIN



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

SEN. CRISTINA CASTRO
SEN. DONALD P. DeWITTE
SEN. DALE FOWLER
SEN. KIMBERLY A. LIGHTFORD
SEN. SUE REZIN
REP. EVA-DINA DELGADO
REP. JACKIE HAAS
REP. STEVEN REICK
REP. CURTIS J. TARVER, II
REP. DAVE VELLA

July 18, 2023

Barbara Flynn Currie, Chair
Pollution Control Board
60 E. Van Buren St.
Chicago IL 60605

Re: Permits and General Provisions (35 Ill. Adm. Code 201; 46 Ill. Reg. 20627 - 12/30/22)

Alternative Control Strategies (35 Ill. Adm. Code 202; 46 Ill. Reg. 20638 - 12/30/22)

Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212; 46 Ill. Reg. 20644 - 12/30/22)

Dear Chair Currie:

This is to notify you that JCAR considered the above-referenced rulemakings at its 7/18/23 meeting.

The Committee has voted an Objection to the rulemakings. The Committee's Certification and Statement of Objections are enclosed.

If we can be of any assistance to your agency in responding to the Objections, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Kim Schultz".

Kim Schultz
Executive Director

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JOINT COMMITTEE ON ADMINISTRATIVE RULES

CERTIFICATION OF OBJECTION

I, Kim Schultz, Executive Director of the Joint Committee on Administrative Rules, being first duly sworn on oath, depose and state that, pursuant to Section 5-110 of the Illinois Administrative Procedure Act, the Joint Committee on Administrative Rules, at its meeting on July 18, 2023, voted an Objection with respect to the Pollution Control Board's rulemakings titled:

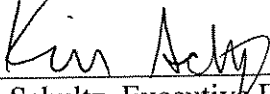
Permits and General Provisions (35 Ill. Adm. Code 201; 46 Ill. Reg. 20627).

Alternative Control Strategies (35 Ill. Adm. Code 202; 46 Ill. Reg. 20638 - 12/30/22)

Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212; 46 Ill. Reg. 20644 - 12/30/22)

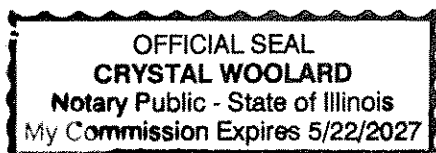
A statement of the Joint Committee's specific Objections accompanies this certification.

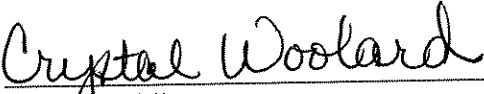
Failure to respond within 90 days after receipt of this Certification of Objection will constitute withdrawal of the proposed rulemakings in its entirety. The agency's response will be placed on the Committee's agenda for further consideration.



Kim Schultz, Executive Director

Subscribed and sworn to before me this 18th day of July, 2023.





Notary Public

Attachments: Statement of Objection
Agreements (3)

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July 18, 2023

Don Brown, Clerk
Pollution Control Board
60 E. Van Buren St., Ste. 630
Chicago IL 60605

Re: Permits and General Provisions (35 Ill. Adm. Code 201; 46 Ill. Reg. 20627 - 12/30/22)

Alternative Control Strategies (35 Ill. Adm. Code 202; 46 Ill. Reg. 20638 - 12/30/22)

Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212; 46 Ill. Reg. 20644 - 12/30/22)

Dear Mr. Brown:

The enclosed are the Register version and the Code copy of the above-cited rules as those rules are to be inserted in the Administrative Code data base. You can use these copies when filing the rulemaking with the Secretary of State.

Please have someone on your staff peruse the enclosed copies to be sure that they reflect the language of the rule as you now understand it to exist; i.e., the original draft with any Second Notice changes, technical corrections and agreements included.

As you know, JCAR has objected to these rulemakings. Should you decide to modify the rules in response to JCAR's action, please let us know. We will provide revised copies of the rules including the modifications for filing.

If you notice any errors or discrepancies in the enclosed versions, please notify us as quickly as possible and we will provide a corrected version you can certify to the Code Division. This material will be integrated into the Code database when adoption of the rules appears in the *Illinois Register*.

Thank you for your cooperation and assistance.

Sincerely,

Kim Schultz
Executive Director

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.

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: 202.107 202.211

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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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.

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.