

From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Fox, Tim](#)
Subject: PC for R18-22
Date: Tuesday, October 30, 2018 10:11:21 AM

Good morning, Mr. Clerk!

Please docket this forwarded email correspondence as a public comment.

If you have any questions, please let me know. Thank you.

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From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Tuesday, October 30, 2018 9:55 AM
To: Jennifer Walling <jwalling@ilenviro.org>; Godiksen, Annet <Annet.Godiksen@Illinois.gov>; McGill, Richard <Richard.McGill@illinois.gov>; EXT Redd-Hicks, Christie <crhicks@edf.org>; LaDonna.Driver@heplerbroom.com; Brad Babcook <bbabcook@cicil.net>; Fox, Tim <Tim.Fox@illinois.gov>; Vetterhoffer, Dana <Dana.Vetterhoffer@Illinois.gov>
Subject: [External] 35 IAC 205: proposed amendment and agreement

Dear Colleagues:

I've been trying to find a compromise that addresses JCAR's concerns about retroactive effective dates and premature dismantling of the program, EPA and IERG's concerns about perpetuating administrative requirements for a program that does not appear to be effective, and environmental groups' determination to ensure that there is no backsliding as a result of this sunset.

Assuming for the sake of argument (following Evans/Kruger (2006) and Kosobud et al. (2008), as well as EPA's own Statement of Reasons) that the current ERMS program is ineffective, we are still locked in by the statutory requirement in EPA Act Sec. 9.8 that EPA design a market-based program and PCB adopt rules implementing it. It is not clear that the program requirements contained in statute are responsible for the alleged defects in the program's effectiveness; it seems likelier that these problems result from and are correctible by rule. If this is the case, then terminating the operation of this specific program without changing the underlying statute may contravene legislative intent, which appears to be that a market-based solution remain in effect until attainment is reached (see page 42 of the House transcript from 5/12/95).

What about leaving the ERMS rules in place for the time being with an agreement between JCAR and EPA that EPA determine (in conjunction with industry/environmental stakeholders) whether a market-based system can be devised that is more effective in optimizing the economic efficiency of

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making the required VOM emissions cuts required to achieve NAAQS? If a more effective system can be devised, then it could be laid out in rule and implemented in time for the 2020 season. If not, EPA could seek a repeal of the underlying statute. To guard against inertia, the sunset date could be changed from 4/30/18 to 4/30/20, addressing JCAR's retroactivity concern and providing ample time for the redesign or repeal to be done correctly.

Changes:

1. In line 74, after "Adopted" add "in R1997-13".
2. In line 83, change "2018" to "2020".

Further Agreement:

EPA agrees to work in conjunction with industry and environmental groups to design a market-based VOM emission reduction system that will be more effective in attaining the 1-hour NAAQS for ground-level ozone than the existing ERMS, and to propose rules implementing this revised system or seek the repeal of the underlying statute [415 ILCS 5/9.8] in time for ERMS participants to prepare for the 2020 season.

Thanks in advance for your comments.

Sincerely,

Jonathan Eastvold

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