



OFFICE OF THE SECRETARY OF STATE

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January 25, 2019

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STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 43, Issue 5 of the Illinois Register, dated 2/1/2019.

NOTICE OF FAILURE TO REMEDY JCAR OBJECTIONS

Emissions Reduction Market System

35 Ill. Adm. Code 205

1669

Point of Contact: Crystal Bockewicz

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

Notice of Public Information

Point of Contact: Mike McCambridge

1673

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYNOTICE OF FAILURE TO REMEDY
OBJECTION TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

- 1) Heading of Part: Emissions Reduction Market System
- 2) Code Citation: 35 Ill Adm Code 205
- 3) Section Numbers: 205.115
- 4) Notice of Proposal Published in Illinois Register: 4/13/18; 42 Ill. Reg. 6572
- 5) Summary of Rulemaking: Sunsets, effective 4/30/18, the Emissions Reduction Market System (ERMS).
- 6) JCAR Action: Objection; 11/13/18; 42 Ill. Reg. 51475
- 7) Basis for JCAR Action: JCAR objected to this rulemaking because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking. It also objected to EPA's implementation of the policy stated in this rulemaking prior to the rulemaking's adoption by PCB, and further recommended that, if PCB and EPA believe this program is no longer warranted, they seek repeal of Sec. 9.8 of the Environmental Protection Act, which requires EPA to design and carry out an emissions reductions market program.
- 8) Agency Response: PCB stated that retroactively sunsetting the program does not impose retroactive obligations on system participants because EPA already shut down the program. Regarding EPA's shutting down the program before the rule change was effective, PCB noted that it is only responding for itself and thus does not need to respond to this Objection. Regarding the Recommendation, PCB argues that Sec. 9.8 does not require the operation of an emissions market system because Sec. 9.8(c)(2) prohibits emissions reductions below what is necessary to achieve the NAAQS and, since the current VOM emissions levels have been reduced by command-and-control measures below what ERMS is able to achieve, clearly ERMS is not necessary to achieve NAAQS.

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