

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
REGULATORY RELIEF)	
MECHANISMS: PROPOSED NEW)	R18-18
35 ILL. ADM. CODE PART 104,)	(Rulemaking – Procedural)
SUBPART E)	

NOTICE OF FILING

TO: Don Brown	Marie E. Tipsord
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500	100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **ILLINOIS ENVIRONMENTAL REGULATORY GROUP’S COMMENT ON THE JOINT COMMITTEE ON ADMINISTRATIVE RULE’S SECOND NOTICE CHANGES**, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: April 5, 2018

By: /s/ Joshua J. Houser
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Joshua J. Houser, the undersigned, on oath state the following:

That I have served the attached **ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S COMMENT ON THE JOINT COMMITTEE ON ADMINISTRATIVE RULE'S SECOND NOTICE CHANGES**, via electronic mail upon:

Don Brown
Clerk of the Board
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That my email address is Joshua.Houser@heplerbroom.com.

That the number of pages in the email transmission is 5.

That the email transmission took place before 5:00 p.m. on the date of April 5, 2018.

/s/ Joshua J. Houser
Joshua J. Houser

Date: April 5, 2018

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ILLINOIS ENVIRONMENTAL REGULATORY GROUP’S COMMENT ON THE JOINT COMMITTEE ON ADMINISTRATIVE RULE’S SECOND NOTICE CHANGES

The ILLINOIS ENVIRONMENTAL REGULATORY GROUP (“IERG”), by and through its attorneys, HEPLERBROOM, LLC, hereby submits its Comment on the Joint Committee on Administrative Rule’s (“JCAR”) Second Notice Changes in the above captioned matter.

IERG appreciates the opportunity to provide this comment on JCAR’s Second Notice Changes submitted in this rulemaking proceeding for the Illinois Pollution Control Board’s (“Board”) consideration. IERG generally supports JCAR’s changes. However, IERG offers the following comment specifically on JCAR’s proposed changes to the language provided in 35 Ill. Adm. Code Section 104.560(a)(6). JCAR proposed revising this language by adding the following underlined portions:

Controls more stringent than those required by sections 301(b) and 306 of the Clean Water Act would result in a substantial and widespread negative economic and social impact on the public;

See JCAR Second Notice Changes, at 7, changes 129-130 to lines 682-683 (revised Apr. 3, 2018, filed Apr. 4, 2018).

The language of this Section 104.560(a)(6) factor is based on the federal factor language provided in 40 C.F.R. Section 131.10(g)(6), which provides as follows:

(g) States may designate a use, or remove a use that is *not* an existing use, if the State conducts a use attainability analysis as specified in paragraph (j) of this

section that demonstrates attaining the use is not feasible because of one of the six factors in this paragraph.

* * *

(6) Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

40 C.F.R. § 131.10(g), (g)(6) (underlined emphasis added).

Notably, the federal rule requires that the use attainability analysis' demonstration be based on the specific factors listed in Section 131.10(g)(1)-(6). JCAR's proposed changes to the language in Section 104.560(a)(6) are inconsistent with the federal rule language for this factor and limit the factor's scope when compared to the federal rule. Thus, IERG recommends against adding JCAR's changes to the factor language in Section 104.560(a)(6).

IERG appreciates the opportunity to provide this comment on JCAR's Second Notice Changes in this rulemaking proceeding. Thank you for your consideration of this comment.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

Dated: April 5, 2018

By: /s/ Joshua J. Houser
One of Its Attorneys

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