Board Agrees to JCAR's Request for Extension of Second Notice in CCR Rulemaking

On March 18, 2021, the Board issued an order to notify participants that the second-notice period in the coal combustion residual (CCR) rulemaking had been extended at the request of the Joint Committee on Administrative Rules (JCAR).

Under Section 22.59(g) of the Environmental Protection Act (Act) (415 ILCS 5/22.59(g)), the Illinois Environmental Protection Agency filed a rulemaking proposal with the Board to regulate all aspects of CCR surface impoundments, including location, design, construction, operation, closure, post-closure, financial assurance, and remediation. That filing, timely made on March 30, 2020, started a one-year period by the end of which the Board was required to adopt final CCR rules, *i.e.*, by March 31, 2021.

On April 16, 2020, the Board adopted a first-notice opinion and order and on February 4, 2021, the Board adopted a second notice-opinion and order. On February 11, 2021, the Joint Committee on Administrative Rules (JCAR) accepted the proposed rules for second notice. However, at its March 16, 2021 meeting, JCAR requested, and the Board agreed, to extend the second-notice period for up to an additional 45 days, *i.e.*, until May 10, 2021. JCAR asked for more time to examine the proposed rules and, specifically, the Board's reliance on the October 19, 2015 effective date of the corresponding federal rules in delineating the universe of CCR surface impoundments that would be subject to Illinois' CCR rules. The proposed rules are expected to be considered by JCAR at its April 13, 2021 meeting.

The rulemaking is captioned <u>Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed New 35 Ill. Adm. Code 845</u>, docket R20-19. Here are links to the Board's March 18, 2021 order, the Board's second-notice opinion and order, and the text of the Board's second-notice rules. For more information, please contact Vanessa Horton at 312-814-5053 or vanessa.horton@illinois.gov.