

Board Goes to First Notice with Alternative Standards for Startup, Shutdown, Breakdown, and Malfunction; Sets Hearing Dates

On August 17, 2023, the Board issued an order proposing first-notice amendments that would make alternative emission limitations available during periods of startup, shutdown, breakdown, and malfunction. For this proposal to amend Parts 212, 215, 216 and 217 of the Board's air pollution rules (35 Ill. Adm. Code 212, 215, 216, and 217), the Board combined the rule text from five rulemaking proposals separately filed on August 7, 2023, by:

- Illinois Environmental Regulatory Group;
- Rain CII Carbon LLC;
- Dynegy Midwest Generation, LLC, Illinois Power Generating Company, Kincaid Generation, LLC, and Midwest Generation LLC;
- American Petroleum Institute; and
- East Dubuque Nitrogen Fertilizers, LLC

Consistent with its grant of expedited review, the Board proceeded directly to first-notice publication in the *Illinois Register* without commenting on the combined proposal's substantive merits. Publication of the proposal in the *Illinois Register* will start a period of at least 45 days during which anyone may file a public comment with the Board concerning the proposed amendments. Further, the Board will hold two public hearings on the proposal, one in Springfield on September 27, 2023, and one in Chicago on November 1, 2023.

This rulemaking is captioned [Amendments to 35 Ill. Adm. Code Parts 201, 202, and 212](#), docket R23-18(A). Here is a link to the Board's [first-notice opinion and order](#), which includes the text of the proposed amendments. And here is a link to the hearing officer's August 17, 2023 [notice of hearing and order](#), which includes times and locations for the two hearings, as well as related pre-filing deadlines.

This "sub-docket A" proceeding ([R23-18\(A\)](#)) was opened by the Board during the "main docket" proceeding ([R23-18](#)). In the latter rulemaking, the Board did not change any emission limitations or any emission source's obligation to comply with them. Rather, the Board eliminated rules that had allowed emission sources to qualify for a "prima facie" defense to an enforcement action resulting from exceeding emission limitations during a startup, malfunction, or breakdown.

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