

Board Proposes Clean Air Act “Fast-Track” Amendments for Second Notice

On April 6, 2023, the Board adopted an opinion and order proposing amendments to its air pollution rules for second-notice review by the Joint Committee on Administrative Rules (JCAR). The amendments would remove provisions that allow the Illinois Environmental Protection Agency (IEPA) to grant emission sources advance permission to continue operating during a malfunction or violate emission standards during startup. Under these provisions, compliance with IEPA’s advance permission is a prima facie defense to an enforcement action. The United States Environment Protection Agency found these provisions to be inconsistent with the Clean Air Act.

IEPA initiated this rulemaking by filing a proposal under the “fast-track” procedures of the Environmental Protection Act (415 ILCS 5/28.5), which require the Board to proceed toward rule adoption by meeting a series of prescribed deadlines. During this rulemaking, the Board held two public hearings and received numerous public comments. JCAR also suggested changes to the Board’s first-notice proposal. The amendments proposed for second notice impact three Parts of the Board’s air pollution rules, *i.e.*, Parts 201, 202, and 212 of Title 35 of the Illinois Administrative Code.

The rulemaking is captioned [Amendments to 35 Ill. Adm. Code Parts 201, 202, and 212](#), docket R23-18. Here is a link to the Board’s [second-notice opinion and order](#). The Board’s addendum with the proposed Part 201 amendments is [here](#); the addendum with the proposed Part 202 amendments is [here](#); and the addendum with the proposed Part 212 amendments is [here](#). For more information, please contact Chloe Salk at chloe.salk@illinois.gov.