

ILLINOIS POLLUTION CONTROL BOARD
March 18, 2021

IN THE MATTER OF:)
)
STANDARDS FOR THE DISPOSAL OF) R20-19
COAL COMBUSTION RESIDUALS IN) (Rulemaking - Land)
SURFACE IMPOUNDMENTS: PROPOSED)
NEW 35 ILL. ADM. CODE 845)

ORDER OF THE BOARD (by B.F. Currie):

On March 30, 2020, the Illinois Environmental Protection Agency (IEPA) filed a proposal under Section 22.59(g) of the Environmental Protection Act (Act) (415 ILCS 5/22.59(g) (added by Public Act 101-171, eff. July 30, 2019)). Generally, the proposed rules will govern the disposal of coal combustion residual or “CCR.” The new Part 845 of the Board’s rules will establish a comprehensive State permitting program to regulate all aspects of CCR surface impoundments, including location, design, construction, operation, closure, post-closure, financial assurance, and remediation.

Under Section 22.59(g) of the Act, IEPA was required to present a proposal to the Board by March 30, 2020, and the Board must adopt the rules within one year after receiving IEPA’s proposal, *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 and scheduled the rulemaking for consideration at its March 16, 2021 meeting, setting the second-notice period to end no later than March 26, 2021. 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. *See* 5 ILCS 100/5-40(c) (2018). JCAR asked for further 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 subject to Part 845. The proposed rules are expected to be considered by JCAR at its April 2021 meeting.

The Board cannot file its proposed rules as final rules before JCAR takes action on Part 845 or the extended second-notice period otherwise expires. *See* 5 ILCS 100/5-40(d) (2018). Therefore, the Board will not adopt final rules until April or May.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 18, 2021, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board