

ILLINOIS POLLUTION CONTROL BOARD
May 4, 2023

IN THE MATTER OF:)
)
PETITION OF MIDWEST GENERATION,)
LLC FOR AN ADJUSTED STANDARD)
FROM 35 ILL. ADM. CODE 845.740(a) AND) AS 21-1
FINDING OF INAPPLICABILITY OF 35) (Adjusted Standard - Land)
ILL. ADM. CODE 845)

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

Midwest Generation, LLC (Midwest) filed a petition (Pet.) pursuant to Section 28.1 of the Environmental Protection Act (Act) and Part 104 of the Board's procedural rules. *See* 415 ILCS 5/28.1 (2020); 35 Ill. Adm. Code 104 Subpart D. Midwest petitions the Board for an adjusted standard from Part 845 - Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments. 35 Ill. Adm. Code 845. Specifically, Midwest seeks adjusted standards for three ponds, known as Pond 1, Pond 2 and Pond 3, at its Joliet 29 Station in Joliet, Will County. For Pond 2, Midwest petitions for an adjusted standard to retain its existing liner. For Ponds 1 and 3, Midwest petitions for an adjusted standard that would remove both ponds from the requirements of Part 845.

The Illinois Environmental Protection Agency (IEPA) first filed a recommendation as to the applicability of Part 845 to Pond 1 and 3. IEPA did not object to Midwest's request for an adjusted standard as to Pond 1 and 3 and stipulated that the ponds were not coal combustion residuals (CCR) surface impoundments under Part 845. In a separate recommendation, as to Pond 2, IEPA recommended that the Board deny Midwest's request for an adjusted standard from Part 845.740(a). Alternately, IEPA said that if the Board were to grant the adjusted standard for Pond 2, IEPA recommended that the adjusted standard be conditionally granted for one year, during which time Midwest would be required to perform testing to determine the nature of the black, silty gravel material at Pond 2.

The Board finds that additional testing is required before making a determination on the substance of the adjusted standard for Pond 2.

Midwest is to conduct the ASTM D 3987-85 shake test to evaluate the leaching potential of any possible CCR material underlying the high density polyethylene (HDPE) liner within Pond 2's containment structures. Midwest is to collect a minimum of two samples in each of the four embankments at Pond 2 and three samples from the bottom of Pond 2 where poz-o-pac was retained and utilized under the HDPE liner. The shake test samples in the embankments must be collected in the black, silty gravel material at a depth of no deeper than 515 feet above mean sea level, or one foot below the bottom elevation of the liner at Pond 2. The shake test samples of the pozzolan-stabilized base material must be crushed prior to conducting the shake test.

When submitted to the Board, the test results must be compared to the Class I groundwater quality standards (GWQS) under 35 Ill. Adm. Code 620.410 and the groundwater protection standards (GWPS) under 35 Ill Adm Code 845.600. The minimum reporting limits must be at or below the applicable GWQS or GWPS. For constituents with standards in both Section 620.410 and Section 845.600, the minimum reporting limits for all laboratory analyses must be at or below the GWPS in Section 845.600. Additionally, when submitted, the results must be accompanied by the chain of custody and laboratory reports.

If the shake test results demonstrate that the leaching potential of the CCR materials underlying the HDPE liner do not exceed the lowest standard specified in either Section 620.410 and Section 845.600, Midwest must conduct integrity testing of the seams of the HDPE liner in Pond 2 to determine if it may be perforated or damaged. The liner integrity test must be certified by a licensed professional engineer and must include a certification that the seams are intact and sealed, and that the liner is not perforated.

The Board sets a four-month deadline for Midwest to complete both the shake test as well as the liner integrity testing. Midwest is to file the testing results with the Board by September 4, 2023. If Midwest completes the testing at a sooner date, it may file the results to the Board. Following the receipt of the testing results, the Board will make a determination on a permanent adjusted standard for Pond 2. The Board anticipates issuing a separate determination for Ponds 1 and 3 at an earlier date.

Following the filing of the test results, IEPA may file a comment and/or file an amended recommendation for Pond 2 by September 18, 2023. Should Midwest file the testing results prior to September 4, 2023, IEPA's comment deadline will be set at 14 days following the filing.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 4, 2023, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board