

ILLINOIS POLLUTION CONTROL BOARD

June 26, 2025

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

Adopted Rule. Final Notice.

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

The Board opened this sub-docket to address issues concerning the disposal of coal combustion residuals (CCR) that could not adequately be addressed during the limited time allowed for completing the underlying rulemaking docket, R20-19. On May 15, 2025, the Board issued second notice of proposed amendments to Part 845. Today, the Board adopts amendments intended to update Part 845. These amendments address the use of temporary storage piles of coal ash and fugitive dust monitoring plans for areas neighboring CCR surface impoundments.

**SECOND NOTICE AMENDMENTS**

As adopted, these Part 845 amendments reflect changes agreed to with the Joint Committee on Administrative Rules (JCAR) at second notice. The Board's second-notice opinion reviews the rulemaking record and discusses suggestions from the Illinois Environmental Protection Agency (IEPA), Dynegy Midwest Generation, LLC, and Ameren Illinois. At its June 17, 2025, meeting, JCAR issued a Certificate of No Objection for the Part 845 amendments.

The Board does not in this order repeat the entire second notice opinion, which can be viewed on the Board's website ([pcb.illinois.gov](http://pcb.illinois.gov)) under this sub-docket number R20-19A. See Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed New 35 Ill. Adm. Code 845, R20-19A (May 15, 2025).

At second notice, the Board opened a second sub-docket, R20-19B in order to address changes to Part 845.220 suggested by IEPA. The Board issued first notice on May 15, 2025, and the proposed amendments were published in the *Illinois Register* on May 30, 2025. The Board will proceed to second notice shortly in sub-docket B.

**TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS**

On April 16, 2020, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) perform an economic impact study of the Board's proposal for the underlying rulemaking, R20-19. *See* 415 ILCS 5/27(b) (2024). The Board requested a response

from DCEO by June 1, 2020, but did not receive a response from the agency. No participant in this sub-docket commented on the Board's request or DCEO's response.

When it adopted Part 845, the Board considered the record and determined that the rule was technically feasible and economically reasonable. The Coal Ash Pollution Prevention Act (Public Act 101-171, eff. July 30, 2019) added Section 22.59 to the Environmental Protection Act, 415 ILCS 5/22.59 (2024). Section 22.59 directed the Board to adopt rules that, "must, at a minimum be at least as protective and comprehensive as the federal regulations." *Id.* In the final adoption order for R20-19, the Board held that that, "[a]s proposed, many of the technical elements required of owners and operators of CCR surface impoundments are already required under federal law... In addition, certain technical aspects of these rules that differ from the federal rules are based on existing regulations for landfills and site-specific rulemaking for CCR surface impoundments." Standards for the Disposal of Coal Combustion Residuals In Surface Impoundments: Proposed New 35 Ill. Adm. Code 845, R20-19, slip op. at 8 (April 15, 2021).

As to economic reasonableness, the Board found that the collection of fees and provisions for financial assurance for all CCR surface impoundments were mandated by the Coal Ash Pollution Prevention Act. *Id.* at 9. The Board held that, "while many of the technical elements of Part 845 are already required under federal law, others are consistent with the Board's existing waste disposal regulations under Parts 811 and 840 that have been found to be economically reasonable." *Id.*

The Board again finds that no addition to the record in this sub-docket alters those conclusions. Based on its review of the record now before it, the Board concludes that its proposed amendments are both technically feasible and economically reasonable. The Board also again finds that these amendments would not have any adverse economic impact on the people of the State of Illinois. *See* 415 ILCS 5/27(a), (b) (2024).

### **CONCLUSION**

The Board concludes to adopt amendments to Part 845 of its coal combustion waste surface impoundment rules. These amended rules include a limited number of changes suggested by JCAR during its second-notice review. The Board has reviewed the record in this proceeding and finds that the adopted rules are technically feasible and economically reasonable and that they will not have an adverse impact on the citizens of Illinois. The adopted rules appear in the addendum to this opinion with additions appearing underlined and deletions appearing struck through.

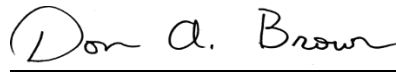
### **ORDER**

The Board directs the Clerk to submit the adopted amendments to the Secretary of State for publication in the *Illinois Register*.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2024); *see also* 35 Ill. Adm. Code 101.300(d), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 26, 2025, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in dark ink and is positioned above a solid horizontal line.

Don A. Brown, Clerk  
Illinois Pollution Control Board