



## OFFICE OF THE SECRETARY OF STATE

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JESSE WHITE • Secretary of State

May 3, 2021

POLLUTION CONTROL BOARD  
DON BROWN  
100 W RANDOLPH ST  
STE 11-500  
CHICAGO, IL 60601

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 45, Issue 19 of the Illinois Register, dated 5/7/2021.

**ADOPTED RULES**

Standards for the Disposal of the Coal Combustion Residuals in Surface Impoundments  
35 Ill. Adm. Code 845 5884  
Point of Contact: Shannon Bilbruck

If you have any questions, you may contact the Administrative Code Division at  
(217) 782 - 7017.

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NOTICE OF ADOPTED RULES

1) Heading of the Part: Standards for the Disposal of the Coal Combustion Residuals in Surface Impoundments

2) Code Citation: 35 Ill. Adm. Code 845

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
845.100	New Section
845.110	New Section
845.120	New Section
845.130	New Section
845.140	New Section
845.150	New Section
845.160	New Section
845.170	New Section
845.200	New Section
845.210	New Section
845.220	New Section
845.230	New Section
845.240	New Section
845.250	New Section
845.260	New Section
845.270	New Section
845.280	New Section
845.290	New Section
845.300	New Section
845.310	New Section
845.320	New Section
845.330	New Section
845.340	New Section
845.350	New Section
845.400	New Section
845.410	New Section
845.420	New Section
845.430	New Section
845.440	New Section
845.450	New Section
845.460	New Section
845.500	New Section
845.510	New Section

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845.520	New Section
845.530	New Section
845.540	New Section
845.550	New Section
845.600	New Section
845.610	New Section
845.620	New Section
845.630	New Section
845.640	New Section
845.650	New Section
845.660	New Section
845.670	New Section
845.680	New Section
845.700	New Section
845.710	New Section
845.720	New Section
845.730	New Section
845.740	New Section
845.750	New Section
845.760	New Section
845.770	New Section
845.780	New Section
845.800	New Section
845.810	New Section
845.900	New Section
845.910	New Section
845.920	New Section
845.930	New Section
845.940	New Section
845.950	New Section
845.960	New Section
845.970	New Section
845.980	New Section
845.990	New Section

- 4) Statutory Authority: Implementing Section 22.59(g), P.A. 101-171 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.59(g), P.A. 101-171 27; and 28].

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- 5) Effective Date of Rule: April 21, 2021
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rule is available on the Board's website (<https://pcb.illinois.gov/>) and is also on file and available for public inspection in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500.
- 9) Notice of Proposal Published in Illinois Register: 44 Ill. Reg. 6696, May 1, 2020
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between proposal and final version: In first-notice comments, participants, including IEPA, requested changes based on testimony received at hearing. The Board agreed to many clarifying changes as well as strengthening provisions for public participation (in 845.240, 845.260), adding a location restriction requiring a floodplain-specific demonstration (845.340), additional requirements concerning fugitive dust complaints (845.500), addition of public participation in the Alternative Source Demonstration process (845.650), and requiring the analysis of transportation alternatives when closing a surface impoundment by removal (845.710). The Board discusses these changes in detail in its second-notice opinion. The Board has also changed references to "effective date of this part" to a date specific: April 21, 2021. Due to an extended second-notice period requested by JCAR, certain compliance dates have been pushed back one month. At adoption, the Board makes a number of non-substantive changes proposed by JCAR
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 22.59(g) of the Environmental Protection Act (Act) (415 ILCS 5/22.59(g), amended in P.A. 101-171 (eff. July 30, 2019) requires IEPA to develop rules establishing construction permit requirements, operating permit requirements, design standards, reporting, financial assurance and closure and post-

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closure care requirements for coal combustion residuals (CCR) surface impoundments. CCR is commonly referred to as coal ash and IEPA has identified 23 power plants in the state that used coal as a fuel source and may be impacted by this rule. When coal is burned at power plants, CCR is formed. IEPA has identified 73 CCR surface impoundments at power generating facilities in the state. The proposed rule fulfills IEPA's statutory obligation to propose new CCR rules to the Pollution Control Board by March 30, 2020. The proposed rules are intended to protect the groundwater within the state of Illinois. An additional purpose of the proposed rules is to adopt the federal CCR rules in Illinois and obtain federal approval of Illinois' CCR surface impoundment program. Further, the proposed rules seek to ensure meaningful public participation in the permitting process of CCR surface impoundments.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Vanessa Horton  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, IL 60601

312-814-5053  
[vanessa.horton@illinois.gov](mailto:vanessa.horton@illinois.gov)

Copies of the Board's opinions and orders are available through the Clerk's Office On-Line (COOL) on the Board's website (<https://pcb.illinois.gov/>). You may also request copies of the Board's opinions and orders from the Clerk at the address listed above or by calling 312-814-3620. Please refer to docket number R19-20 in your request.

The full text of the adopted rule begins on the next page: