

ILLINOIS POLLUTION CONTROL BOARD  
May 26, 2022

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 )

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

On March 3, 2022, in this sub-docket, the Board proposed rule text which consisted of both a new Part 846 and amendments to Part 845, and set a 90-day comment period on the proposed text to end on June 3, 2022. On April 5, 2022, the Environmental Law & Policy Center, Little Village Environmental Justice Organization, Prairie Rivers Network, and Sierra Club (Environmental Groups) jointly filed a motion (Mot.) requesting that the Board allow for an additional 60-day window following the June 3, 2022 deadline to allow for responsive comments from participants. On April 19, 2022, a joint response opposing the motion (Resp.) was filed by Dynegy Midwest Generation, LLC, Electric Energy, Inc., Illinois Power Generating Company, Illinois Power Resources Generating, LLC, and Kincaid Generation, LLC (Dynegy). Based on the factors and reasons below, the Board grants the Environmental Groups’ motion for additional response time.

**Environmental Groups’ Motion for Additional Response Time**

With the opening of this sub-docket and the specific request for information and proposed rule language, the Board received 14 public comments. Only one comment provided proposed rule language – that comment was from the Environmental Groups. PC 10. To further develop the language of the proposed rule, the Environmental Groups argue an additional response period will be helpful. “Environmental Groups submit that the record will offer a more robust, comprehensive evaluation of those proposed rules if participants may review other participants’ comments on Environmental Groups’ proposed rules and respond to those comments.” Mot. at 1. The Environmental Groups said that they “have conferred with counsel for several participants in this subdocket, and counsel for Illinois EPA (“IEPA”) stated that IEPA takes no position on this motion as did counsel for Ameren.” *Id.*

**Dynegy’s Response in Opposition to Additional Response Time**

Dynegy requests that the Board deny the Environmental Groups’ motion for an additional 60-day response time as “untimely, unnecessary, and unduly burdensome.” Resp. at 5. Arguing that ample time has been given to participants and the public to provide comments, Dynegy says, “[a]llowing an additional 60-day comment period will increase the burden on the Board and participants in the rulemaking and unnecessarily delay resolution of these issues for the regulated community and public.” *Id.*

**DISCUSSION**

The Board is unconvinced by Dynege's arguments in opposition to the motion. The Board asked participants to provide comment on a wide range of topics and allowing for responsive comments is the best way to develop this record. Therefore, the Board finds that an additional 60 days for the filing of responsive public comments is reasonable. Initial public comments on the proposed rule text continue to be due by June 3, 2022. Responsive public comments are due by August 2, 2022.

Public comments must be filed electronically through the clerk's Office On-Line (COOL) at [pcb.illinois.gov](http://pcb.illinois.gov). 35 Ill. Adm. Code 101.100. The Board requests that comments indicate the docket number R 20-19(A) of this rulemaking. Questions about electronic filing should be directed to the Board's Clerk at (312) 814-3461.

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 26, 2022, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board