

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:

PETITION OF ELECTRIC ENERGY, INC.
FOR A FINDING OF INAPPLICABILITY
OR, IN THE ALTERNATIVE, AN
ADJUSTED STANDARD FROM
35 ILL. ADMIN. CODE PART 845

AS 2021-005
(Adjusted Standard)

NOTICE OF FILING

To: Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
Don.Brown@Illinois.Gov
PCB.Clerks@illinois.gov

Rebecca Strauss
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East, PO Box 19276
Springfield, Illinois 62794-9276
Rebecca.Strauss@Illinois.Gov

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East, PO Box 19276
Springfield, Illinois 62794-9276
Stefanie.Diers@Illinois.Gov

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board Electric Energy, Inc.'s Response to Recommendation of the Illinois Environmental Protection Agency to Petition for Adjusted Standard and a Certificate of Service, copies of which are herewith served upon you.

/s/ Sarah L. Lode
Sarah L. Lode

Dated: June 5, 2024

ArentFox Schiff LLP
Attorney for Petitioner Electric Energy, Inc.
Joshua More

Bina Joshi
Sarah L. Lode
ArentFox Schiff LLP
233 South Wacker Drive
Suite 7100
Chicago, Illinois 60606
(312) 258-5500
joshua.more@afslaw.com
bina.joshi@afslaw.com
sarah.lode@afslaw.com

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 5th day of June, 2024:

I have electronically served a true and correct copy of Electric Energy, Inc.'s Response to Recommendation of the Illinois Environmental Protection Agency to Petition for Adjusted Standard, by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon the following persons:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
Don.Brown@Illinois.Gov
PCB.Clerks@illinois.gov

Rebecca Strauss
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East, PO Box 19276
Springfield, Illinois 62794-9276
Rebecca.strauss@Illinois.Gov

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East, PO Box 19276
Springfield, Illinois 62794-9276
Stefanie.Diers@Illinois.Gov

My e-mail address is sarah.lode@afslaw.com;

The number of pages in the e-mail transmission is 60.

The e-mail transmission took place before 5:00 p.m.

/s/ Sarah L. Lode

Sarah L. Lode

Dated: June 5, 2024

ARENTFOX SCHIFF LLP

Attorney for Petitioner Electric Energy, Inc.

Joshua More

Bina Joshi

Sarah L. Lode

ArentFox Schiff LLP

233 South Wacker Drive, Suite 7100

Chicago, Illinois 60606

(312) 258-5500

joshua.more@afslaw.com

bina.joshi@afslaw.com

sarah.lode@afslaw.com

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:

PETITION OF ELECTRIC ENERGY, INC.
FOR A FINDING OF INAPPLICABILITY
OR, IN THE ALTERNATIVE, AN
ADJUSTED STANDARD FROM
35 ILL. ADMIN. CODE PART 845

AS 2021-005
(Adjusted Standard)

**RESPONSE TO RECOMMENDATION OF THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY TO PETITION FOR ADJUSTED STANDARD**

Submitted on behalf of
Electric Energy, Inc.

TABLE OF CONTENTS

INTRODUCTION 3

APPLICABLE RULES..... 6

DISCUSSION 7

 I. WITHDRAWAL OF REQUEST FOR INAPPLICABILITY 7

 II. PROPOSED ADJUSTED STANDARD 8

 III. 35 ILL. ADMIN. CODE § 104.406 PETITION CONTENT REQUIREMENTS 12

 a. Section 104.406(a): Standard from which an adjusted standard is sought, including Illinois Administrative Code citation and effective date 12

 b. Section 104.406(b): Whether the regulation was promulgated to implement, in whole or in part, the requirements of the Clean Water Act, Safe Drinking Water Act, Comprehensive Environmental Response, Compensation and Liability Act, Clean Air Act, or the State programs concerning Resource Conservation and Recovery Act, Underground Injection Controls, or National Pollutant Discharge Elimination Systems 12

 c. Section 104.406(c): Level of justification and other information or requirements necessary for an adjusted standard..... 13

 d. Section 104.406(d): Nature of the Petitioner’s activity that is subject of the proposed adjusted standard 13

 e. Section 104.406(e): Efforts Necessary to Comply with Part 845 14

 f. Section 104.406(f): Narrative description of proposed adjusted standard and efforts necessary to achieve the proposed adjusted standard..... 15

 g. Section 104.406(g): Impact to environment 17

 h. Section 104.406(h): How petitioner seeks to justify, under the applicable level of justification, the proposed adjusted standard..... 18

 i. Section 104.406(i): Reasons the Board may grant the adjusted standard consistent with federal law..... 18

 j. Section 104.406(j): A statement requesting or waiving a hearing on the petition 18

 k. Section 104.406(k): Citation to supporting documents. 18

IV. THE PROPOSED ADJUSTED STANDARD IS JUSTIFIED 19

 a. Section 28.1(c)(1): Factors relating to the petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to petitioner..... 19

 b. Section 28.1(c)(2): Those factors justify an adjusted standard..... 20

 c. Section 28.1(c)(3): The requested interim adjusted standard will not result in environmental or health effects substantially or significantly more adverse than the effects considered by the Board in adopting the rule of general applicability 21

 d. Section 28.1(c)(4): Consistency with any Applicable Federal Law 22

V. WITHDRAWAL OF REQUEST FOR HEARING..... 26

VI. CONCLUSION..... 26

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:

PETITION OF ELECTRIC ENERGY, INC.
FOR A FINDING OF INAPPLICABILITY
OR, IN THE ALTERNATIVE, AN
ADJUSTED STANDARD FROM
35 ILL. ADMIN. CODE PART 845

AS 2021-005
(Adjusted Standard)

**RESPONSE TO RECOMMENDATION OF THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY TO PETITION FOR ADJUSTED STANDARD**

Electric Energy, Inc. (“EEI” or the “Petitioner”), by and through its attorneys, ArentFox Schiff LLP, and pursuant to Section 28.1 of the Environmental Protection Act (415 Ill. Comp. Stat. 5/28.1) and Section 104.416(d) of the Board’s Administrative Rules (35 Ill. Admin. Code § 104.416(d)), provides this Response to the November 23, 2021, Recommendation of the Illinois Environmental Protection Agency (the “Response”). Through this Response, EEI withdraws its request for a finding of inapplicability and requests that Illinois Pollution Control Board (the “Board”) grant an interim adjusted standard from 35 Ill. Admin. Code Part 845 (“Part 845”) for the Joppa West Pond (“Joppa West”), as proposed in this Response. EEI has met and conferred with the Illinois Environmental Protection Agency (“IEPA”) regarding the interim adjusted standard proposed herein, and IEPA agrees to its entry.

INTRODUCTION

On April 15, 2021, the Board adopted Part 845, regulating the disposal of coal combustion residuals (“CCR”) in surface impoundments, which became effective on April 21, 2021. *See* Board Docket, R2020-019. On May 11, 2021, EEI filed an adjusted standard petition (the “Petition”), arguing that Part 845 is inapplicable to Joppa West because Joppa West is not a “CCR surface

impoundment” as defined by Part 845. AS 2021-005, *In the Matter of: Petition of Electric Energy, Inc. for a Finding of Inapplicability or, in the Alternative, and Adjusted Standard from 35 Ill. Admin. Code Part 845*, Petition of Electric Energy, Inc. for an Adjusted Standard from 35 Ill. Admin. Code Part 845, or In the Alternative, a Finding of Inapplicability (hereinafter cited as “Petition”) at 19–25 (May 11, 2021). In the alternative, EEI argued that the unique characteristics of Joppa West—including that it stopped receiving CCR almost 50 years ago and has since been capped by soil, clay, grass, thick vegetation, and mature trees—warrant an adjustment from certain provisions of Part 845, predominantly those related to closure. *See id.* at 26–41. Following the filing, EEI properly and timely published notice of its Petition in newspapers of general circulation in the area in and around Joppa, Illinois. *See AS 2021-005, In the Matter of: Petition of Electric Energy, Inc. for a Finding of Inapplicability or, in the Alternative, and Adjusted Standard from 35 Ill. Admin. Code Part 845*, Petitioner’s Proof of Petition Notice Requirements, Exhibit 1 (June 4, 2021). On June 4, 2021, EEI filed its Certificate of Publication with the Board, *id.*, and on June 17, 2021, the Board accepted the Petition. AS 2021-005, *In the Matter of: Petition of Electric Energy, Inc. for a Finding of Inapplicability or, in the Alternative, and Adjusted Standard from 35 Ill. Admin. Code Part 845*, Order of the Board (June 17, 2021).

On November 22, 2021, IEPA filed a Recommendation in this matter. AS 2021-005, *In the Matter of: Petition of Electric Energy, Inc. for a Finding of Inapplicability or, in the Alternative, and Adjusted Standard from 35 Ill. Admin. Code Part 845*, Recommendation of the Illinois Environmental Protection Agency (hereinafter cited as “Recommendation”) (November 22, 2021). IEPA recommended that the Board deny Petitioner’s request for a finding of inapplicability. *Id.* at 5. IEPA further recommended that the Board conditionally grant Petitioner’s request for adjusted standard. *Id.* IEPA stated it “does not object to the Board granting Petitioner’s proposed adjusted

standard upon the stated conditions that Petitioner provide sufficient demonstration that [Joppa West] does not pose a threat to human health or the environment.” *Id.* at 33. IEPA’s Recommendation included a set of proposed conditions to the adjusted standard requiring a demonstration that Joppa West does not pose a threat to human health or the environment. *Id.* at 38–41. Those conditions include limiting the time period of the adjusted standard. *Id.* at 39 ¶ 50. During that limited time period, EEI would conduct additional characterization and monitoring of Joppa West and create a report further analyzing the impact of Joppa West on human health and the environment and its ability to achieve the groundwater protection standards (“GWPS”). *Id.* at 39–41. If supported, EEI could then use the information from that additional investigation to apply for a permanent adjusted standard at the end of the interim adjusted standard period. *Id.* at 40–41. IEPA’s Recommendation noted that it will consider Joppa West to be “closed” when “(1) Petitioner demonstrates it will achieve compliance with GWPS in Section 845.600 . . . , (2) Petitioner completes an alternative closure method approved by the Board and permitted by [IEPA], or (3) [Joppa West] is closed pursuant to Part 845 by deadlines set by the Board.” *Id.* at 41 ¶ 55.

Petitioner, after receiving IEPA’s Recommendation, met and conferred with IEPA and in the spirit of moving forward and reaching finality regarding Joppa West, Petitioner withdraws its request for inapplicability. Additionally, EEI and IEPA came to an agreement on an interim adjusted standard that incorporates many of the conditions in IEPA’s Recommendation. Accordingly, EEI proposes that the Board grant the agreed interim adjusted standard set forth in Section II, below.¹

¹ On May 8, 2024, the United States Environmental Protection Agency (“USEPA”) published amendments to 40 C.F.R. Part 257, Subpart D, that may impact Joppa West. *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy CCR Surface Impoundments*, 89 Fed. Reg. 38,950, 39,100 (May 8, 2024) (“2024 federal CCRMU rule”). The new rule does not become effective until November 8,

APPLICABLE RULES

The Illinois Environmental Protection Act (the “Act”) and the Board’s procedural rules provide that a petitioner may request, and the Board may grant, an adjusted standard that is different from the generally applicable standard that would otherwise apply to the petitioner. 415

Ill. Comp. Stat. 5/28.1; *see generally* 35 Ill. Admin. Code Part 104, Subpart D.

After adopting a regulation of general applicability, the Board may grant, in a subsequent adjudicatory determination, an adjusted standard for persons who can justify such an adjustment consistent with subsection (a) of Section 27 of this Act.^[2] In granting such adjusted standards, the Board may impose such conditions as may be necessary to accomplish the purposes of this Act. The rule-making provisions of the Illinois Administrative Procedure Act and Title VII of this Act shall not apply to such subsequent determinations.

415 Ill. Comp. Stat. 5/28.1(a). Section 28.1(c) of the Act provides

(c) If a regulation of general applicability does not specify a level of justification required of a petitioner to qualify for an adjusted standard, the Board may grant individual adjusted standards whenever the Board determines, upon adequate proof by petitioner, that:

- (1) factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to the petitioner;
- (2) the existence of those factors justifies an adjusted standard;
- (3) the requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability; and
- (4) the adjusted standard is consistent with any applicable federal law.

2024. *See USEPA, Final Rule – Legacy Coal Combustion Residuals Surface Impoundments and CCR Management Units*, available at <https://www.epa.gov/coalash/final-rule-legacy-coal-combustion-residuals-surface-impoundments-and-ccr-management-units> (“The correct effective date of the rule is November 8, 2024.”) (attached as Exhibit 1)

. The agreed interim adjusted standard is from state standards, not federal standards.

² Section 27(a), as incorporated into Section 28.1(a), requires that “the Board shall take into account the [1] existing physical conditions [of the site], [2] the character of the area involved, [including the] surrounding land uses, [3] zoning classifications, [4] the nature of the . . . receiving body of water, . . . and [5] the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.” 415 Ill. Comp. Stat. 5/27(a); *see also* 415 Ill. Comp. Stat. 5/28.1(a).

Id. at 5/28.1(c). Because Part 845 does not specify a level of justification for an adjusted standard, the factors identified in Section 28.1(c) of the Act serve as the Board's basis for evaluating an adjustment from Part 845's requirements. *See id.*

Section 104.406 of the Board's procedural rules specify the required contents for an adjusted standard petition. *See* 35 Ill. Admin. Code § 104.406. After a petition for an adjusted standard is filed, IEPA must file a recommendation with the Board, *id.* § 104.416(a), and petitioner may file a response to IEPA's recommendation. *Id.* § 104.406(d).

Once granted, the adjusted standard, instead of the rule of general applicability, applies to the petitioner. *See* 415 Ill. Comp. Stat. 5/28.1(a); 35 Ill. Admin. Code § 101.202 (definition of "adjusted standard"); *id.* § 104.400(a).

When promulgating Part 845, the Board specifically contemplated the availability of adjusted standards when warranted by conditions at a site. R2020-019, *In the Matter of Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845*, Proposed Rule, Second Notice, Opinion and Order of the Board (hereinafter cited as "Opinion and Order") at 97 (Feb. 4, 2021) ("[T]he owner or operator of a CCR surface impoundment may petition for an adjusted standard if it believes less stringent standards are appropriate for site-specific reasons."); *see also* *Midwest Generation v. Illinois Pollution Control Board*; *Dynegy Midwest Generation, LLC v. Illinois Pollution Control Board*; *AmerenEnergy Medina Valley Cogen, LLC* (consolidated cases), 2024 IL App (4th) 210304 at 22 (Mar. 13, 2024).

DISCUSSION

I. WITHDRAWAL OF REQUEST FOR INAPPLICABILITY

EEI is withdrawing its request for inapplicability in this proceeding.

II. PROPOSED ADJUSTED STANDARD

EEI requests that the Board grant an interim adjusted standard consistent with IEPA's Recommendation. EEI and IEPA have conferred to incorporate IEPA's recommended conditions into the interim adjusted standard presented here, and IEPA has represented that it supports entry of an order granting the interim adjusted standard. The parties agree that the agreed interim adjusted standard addresses concerns IEPA raised in its Recommendation and is justified under Section 28.1 of the Act. The proposed language for the agreed interim adjusted standard is as follows:

The Board hereby grants an interim adjusted standard for a period lasting six years from the submission of a Part 845 operating permit application by Petitioner to the Illinois Environmental Protection Agency ("IEPA" or the "Agency") in accordance with this interim adjusted standard, except, in the event Petitioner files for a permanent adjusted standard in accordance with paragraph (h) below within that same six year period, this interim adjusted standard shall apply until the conclusion of that permanent adjusted standard proceeding. During the interim adjusted standard period, the Joppa West Pond ("JW") shall be exempt from the requirements of 35 Ill. Admin. Code Part 845, except for the following requirements, which shall apply subject to the modifications described below.

- a) All of Subpart A
- b) Subpart B:
 - 1. 845.200(a)(2)
 - 2. 845.200(b)
 - 3. All of 845.210
 - 4. 845.230(d)(1) modified such that Petitioner's initial operating permit application for JW shall be due to the Agency within 12 months after entry of this interim adjusted standard and shall include the information set forth in Section b.5, below.
 - 5. 845.230(d)(2)(A), (C), (E), (G), (I)(i)–(iv), (J), (K), (M), (N), and (S)
 - 6. 845.230(e)
 - 7. 845.250

8. 845.260
9. 845.270
10. Within 30 days of approval of an operating permit by IEPA, Petitioner shall provide notice to the Board of its issuance.
11. 845.280
12. 845.290

c) Subpart F:

1. 845.600
2. 845.610(a), (b)(1), (b)(3). 845.610(b)(3) shall apply as of the quarter after submittal of Petitioner's operating permit application in accordance with b.4, above. Additionally, Petitioner shall provide a copy of lab reports and field sheets to the Agency within 60 days after the receipt of final laboratory reports.
3. 845.610(c)
4. 845.610(d)
5. 845.620
6. 845.630, with 845.630(c)(1) modified to require a minimum of one upgradient and three downgradient wells in the upper most aquifer.
7. 845.640
8. 845.650(a)
9. 845.650(b), except (b)(1)(A) and (B)
10. 845.650(c)
11. 845.650(d), which shall apply as of the quarter after submittal of Petitioner's operating permit application in accordance with b.4, above.
12. 845.650(e), which shall apply as of the quarter after submittal of Petitioner's operating permit application in accordance with b.4, above.
13. 845.660(a), except 845.660(a)(1) is modified to require an assessment of corrective measures to be initiated within 90 days of detecting a constituent at a statistically significant level above the

groundwater protection standards listed in 845.600 at the downgradient waste boundary, as follows. Detection of a constituent at a statistically significant level above groundwater protection standards listed in 845.600 shall be based on sampling conducted as of the quarter after submittal of and pursuant to the proposed groundwater monitoring plan submitted with Petitioner's operating permit application until such time as the Agency issues an operating permit with an approved groundwater monitoring plan. Upon the Agency's issuance of an operating permit with an approved groundwater monitoring plan, detection of a constituent at a statistically significant level above groundwater protection standards listed in 845.600 shall be determined based on the Agency-approved groundwater monitoring plan.

14. 845.660(b), (c)
15. 845.670(a)
16. 845.670(b) shall not apply, except within one year of completing the assessment of corrective measures required in (c)(13), Petitioner must submit to IEPA for its review and approval a corrective action plan that identifies the selected remedy.
17. 845.670(c)–(f)
18. 845.680
19. Petitioner must conduct sufficient sampling to represent source concentrations of CCR for purposes of performing geochemical modeling and evaluation of leaching potential from JW.
20. Petitioner shall (1) identify the 845.600(a) chemical constituents within the CCR in JW through solids sampling and (2) perform Synthetic Precipitation Leaching Procedure (SPLP, SW846 Test Method 1312) or Toxicity Characteristic Leaching Procedure (TCLP, SW846 Test Method 1311) analysis of the CCR within JW for the 845.600(a) constituents detected in the solids sampling. The minimum detection limits must be at least the groundwater protection standards in 845.600(a). The number of solids samples must include a minimum of one sample per 10 percent of the volume with at least three of the samples being collected in the upper one-third of the CCR by depth from ground surface, at least three of the samples being collected in the middle one-third of the CCR by depth from ground surface, and at least three of the samples being collected in the bottom one-third of the CCR by depth from ground surface.

21. Upon collecting five years of quarterly monitoring data, Petitioner shall prepare and submit a report to IEPA evaluating the remaining heavy metals for transport in the groundwater. That report shall include a mass transport model, a geochemical model, and a flow model demonstrating (1) whether groundwater contamination from JW exceeding the groundwater protection standards in 845.600 is dispersing or diffusing in a manner that does not contribute to an exceedance of the groundwater protection standards in 845.600 outside of the facility property boundary, and, if applicable, (2) whether the corrective action implementation is protective of human health and the environment. The report shall also include a human health risk assessment and ecological risk assessment verifying that Joppa West Ash Pond that the above action are protective of human health and the environment.

d) Subpart G:

1. 845.720(a)
2. 845.780(d)

e) Subpart H:

1. 845.800(a), except Petitioner must maintain only that information required under 845.800(d)(1), (2), (15), (16), (17), (18), and (33).
2. 845.800(b)
3. 845.800(c)
4. 845.800(d)(1), (2), (15), (16), (17), (18), and (33)
5. 845.810(a)–(e) and (g), except for purposes of 845.810(e), Petitioner shall be required to post to its CCR website only that information it is required to include in its facility operating record under 845.800.

f) Subpart I:

1. 845.900, except for purposes of 845.900(d) financial assurance for closure and post-closure care shall be due 90 days after submittal of Petitioner's initial operating permit application.
2. 845.910
3. 845.920
4. 845.930

5. 845.940
6. 845.950, except for purposes of 845.950(c)(1) financial assurance for closure and post-closure care shall be due 90 days after submittal of Petitioner's initial operating permit application.
- g) Nothing in this interim adjusted standard shall exempt Petitioner from applicable requirements contained in other state or federal laws.
- h) Petitioner must submit the report required under (c)(21) to the Agency within 180 days of completion of the five years of monitoring required under this interim adjusted standard. Following submission of the report, Petitioner may apply for a permanent adjusted standard. If Petitioner makes such a petition and it is granted, the new adjusted standard shall apply. If not, JW shall be subject to Part 845, as it may be amended and subject to any other adjusted standards or variances that may apply.

III. 35 ILL. ADMIN. CODE § 104.406 PETITION CONTENT REQUIREMENTS

EI discussed each of the Section 104.406 requirements in its Petition. *See generally* Petition. Here, EI updates the information required by Section 104.406 in response to IEPA's Recommendation and the agreed upon interim adjusted standard.

a. Section 104.406(a): Standard from which an adjusted standard is sought, including Illinois Administrative Code citation and effective date

The rule from which Petitioner is seeking an adjusted standard is 35 Ill. Admin. Code Part 845, which became effective on April 21, 2021. *See* Petition at 3, 11–12; Recommendation at 25.

b. Section 104.406(b): Whether the regulation was promulgated to implement, in whole or in part, the requirements of the Clean Water Act, Safe Drinking Water Act, Comprehensive Environmental Response, Compensation and Liability Act, Clean Air Act, or the State programs concerning Resource Conservation and Recovery Act, Underground Injection Controls, or National Pollutant Discharge Elimination Systems

Part 845 was not promulgated to implement, in whole or in part, the requirements of the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. § 300(f) *et seq.*), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*), Clean Air Act (42 U.S.C. § 7401 *et seq.*), or the State programs concerning the Resource

Conservation and Recovery Act, Underground Injection Controls, or National Pollutant Discharge Elimination Systems. *See* Petition at 10 n.7; Recommendation at 25–26.

c. Section 104.406(c): Level of justification and other information or requirements necessary for an adjusted standard

The regulation of general applicability at issue here, 35 Ill. Admin. Code Part 845, does not specify a level of justification or other requirements. Thus, the level of justification for this adjusted standard are the factors identified in 415 Ill. Comp. Stat. 5/28.1(c). *See* Petition at 26; Recommendation at 26, 37.

d. Section 104.406(d): Nature of the Petitioner's activity that is subject of the proposed adjusted standard

The nature of Petitioner's activity that is subject to the proposed interim adjusted standard remains the same. *See* Petition at 12–19. Joppa West is a former impoundment that ceased receiving CCR in the early 1970s and has since been covered by soil, clay, and thick vegetation. *Id.* at 13–16. IEPA's Recommendation expressed certain concerns and opinions regarding the current state and nature of potential releases from Joppa West. EEI conducted sampling that suggested one currently installed groundwater monitoring well (GS112C) may have elevated levels of boron and sulfate attributable to Joppa West. Petition at 17–18. IEPA's Recommendation further expressed a desire to see additional groundwater sampling in support of Petitioner's Human Health Risk Assessment (Petition, Ex. 4). Recommendation at 29–30, 35–36.

While EEI does not necessarily agree with the opinions and conclusions included in IEPA's Recommendation, it is willing to conduct the additional investigation recommended by IEPA to further characterize Joppa West and determine the impact, if any, of CCR from Joppa West. Accordingly, the proposed interim adjusted standard will require the evaluation sought by IEPA in its Recommendation, including collecting sampling data for the Section 845.600 parameters in accordance with a groundwater monitoring plan, evaluating the geochemistry of Joppa West,

performing fate and transport modeling, and developing a human health and ecological risk assessment. The interim adjusted standard also will not include an adjustment from the groundwater monitoring and corrective action requirements of Part 845. Accordingly, if any releases from Joppa West are causing exceedances of the GWPS, any such impact will be addressed.

e. Section 104.406(e): Efforts Necessary to Comply with Part 845

This Section asks for Petitioner to describe the efforts that would be necessary to comply with Part 845 and include “[a]ll compliance alternatives with the corresponding cost for each alternative.” 35 Ill. Admin. Code § 104.406(e).³ EEI’s Petition explained the efforts that would be necessary to comply with Part 845 and discussed three compliance alternatives: (1) the relief sought under the requested adjusted standard, (2) closure by removal in accordance with Part 845, and (2) closure in place with a new final cover system under Part 845. Petition at 35–39; *see also* 35 Ill. Admin. Code §§ 845.740, 845.750; Petition, Ex. 2. The effort required for each of these is set forth in Petition Ex. 2. As noted in EEI’s Petition, the cost to close a 60-acre unit, for example, containing 2,700,000 cubic yards of CCR by removal is estimated to be \$152 million, Petition at 36, and the cost to close the same unit with a new final cover system is estimated to be \$28 million.⁴ *Id* at 38. Joppa West is larger and thus could cost more to close either by removal or with a new

³ Public Comment 1 (“PC1”) argues that the Board should ignore the Section 104.406(e) factor in evaluating a request for an adjusted standard from Part 845. AS 2021-005, *In the Matter of: Petition of Electric Energy, Inc. for a Finding of Inapplicability or, in the Alternative, and Adjusted Standard from 35 Ill. Admin. Code Part 845*, Comments of Earthjustice, Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club on Electric Energy, Inc.’s Petition for a Finding of Inapplicability or Adjusted Standard (hereinafter cited as “PC1”) at 21 (Feb. 21, 2022). However, PC1’s argument on this point is contrary to the plain requirements of an adjusted standard proceeding, which requires that economic reasonableness be considered. 415 Ill. Comp. Stat. 5/27(a). Further, the Board acknowledged the availability of adjusted standards when promulgating the Part 845 standards and nowhere in that discussion specified a different level of justification for adjustments from Part 845 or otherwise suggest that economic reasonableness, including the cost of compliance alternatives, should be ignored. *See generally* Opinion and Order.

⁴ While capital costs largely differ between these compliance alternatives and the proposed adjusted standard, as noted in EEI’s Petition, annual operating and maintenance costs are anticipated to be similar among each of the scenarios. Petition at 39 n.13.

final cover system. *Id.* at 36–38. While IEPA’s Recommendation suggests EEI could get some salvage value from selling the wood from the deforestation that would have to occur to close Joppa West under Part 845, it does not dispute EEI’s assertion that it will cost approximately \$2.6 million to remove the current forest and prairie cover that sits on top of Joppa West. Recommendation at 32.

Regardless, any such offset would not negate the significantly higher capital costs associated with the closure alternatives under Part 845 compared to the cost of complying with the proposed interim adjusted standard. *Compare* Petition at 35–38 *with id.* at 39. Further, any alternative other than the interim adjusted standard will result in having to remove the vegetation and forest growth on top of Joppa West, impacting a possible habitat for the federally endangered Indiana bat and northern long-eared bat.⁵ Petition at 29. In addition, any alternative other than the proposed interim adjusted standard will require removal and relocation of the existing electrical transmission infrastructure located upon Joppa West. Petition at 36.

f. Section 104.406(f): Narrative description of proposed adjusted standard and efforts necessary to achieve the proposed adjusted standard

During the proposed interim adjusted standard, EEI will be exempt from closure requirements in Part 845; however, Part 845 groundwater standards, monitoring requirements, corrective action requirements, recordkeeping requirements, and financial assurance requirements will apply. The interim adjusted standard further will not excuse EEI from complying with any statutory requirements that apply to CCR surface impoundments under 415 ILCS 5/22.59.

The proposed interim adjusted standard will be interim in nature (*i.e.* limited to six years from the submission of an operating permit application for Joppa West or, if a request for a

⁵ At the time the Petition was filed, the northern long-eared bat was federally threatened. *See* Petition at 29. It has since been upgraded to federally endangered. *Endangered and Threatened Wildlife and Plants; Endangered Species Status for Northern Long-Eared Bat*, 87 Fed. Reg. 73,488 (Nov. 30, 2022).

permanent adjusted standard is filed during the six year period, until that proceeding is complete). The deadline for submission of an operating permit under Part 845 is moot, therefore, the proposed interim adjusted standard requires Petitioner to submit an operating permit application for Joppa West within one year of the effective date of the interim adjusted standard.

The interim adjusted standard also includes certain conditions that go beyond the requirements of Part 845 by requiring EEI to collect information to further characterize and evaluate Joppa West and further analyze whether there is support for a permanent adjusted standard from Part 845 closure requirements. Per IEPA's Recommendation, the interim adjusted standard will require EEI to provide a report based on five years of quarterly analytic data, evaluating remaining heavy metals transport in groundwater. Recommendation at 39. The Board has acknowledged that a five-year monitoring period "allows for collecting sufficient data to characterize groundwater." R2020-019, Opinion and Order at 73. EEI will submit a report, due within 180 days of EEI collecting five years of monitoring data, that includes a mass transport model, a geotechnical model, and a flow model, demonstrating whether (1) groundwater contamination from Joppa West exceeding the groundwater protection standards in 845.600 is dispersing or diffusing in a manner that does not contribute to an exceedance of the groundwater protection standards in 845.600 outside of the facility property boundary, and, if applicable, (2) the corrective action implementation at Joppa West is protective of human health and the environment. Significantly, while IEPA's Recommendation suggested that this demonstration be based on the current cover system and natural attenuation (Recommendation at 40), IEPA and Petitioner agreed that, if applicable, Petitioner will be subject to the groundwater corrective action requirements in Part 845 during the interim adjusted standard period, including additional corrective actions beyond natural attenuation. The interim adjusted standard will not result in any

adjustment to the requirement to evaluate and perform groundwater corrective action under Part 845 if Joppa West is found to cause or contribute to an exceedance of the GWPS.

Upon completion of the report that is a condition of the proposed interim adjusted standard, EEI may petition the Board for a more permanent adjusted standard from the Part 845 closure requirements using the information developed during the interim adjusted standard. Petitioner will have to demonstrate a permanent adjusted standard is justified. If EEI does not apply for an additional adjusted standard or an additional adjusted standard is not granted, Part 845 will apply to Joppa West in its entirety.

g. Section 104.406(g): Impact to environment

The interim adjusted standard will allow the existing 100 acres of forest and vegetation cover on Joppa West to stay in place during the interim adjusted standard period, and if supported by the information developed during the interim adjusted standard, permanently. Petition at 39; Recommendation at 36–38. In addition, it will allow the continued existence of potential habitat for the federally endangered Indiana bat and federally endangered northern long-eared bat. Petition at 29; *see also* 87 Fed. Reg. 73,488 (raising the northern long-eared bat from threatened to federally endangered).

Further, the interim adjusted standard is protective of the environment. The GWPS in Section 845.600 will apply to Joppa West during the interim adjusted standard period, as will the Part 845 requirement to establish a groundwater monitoring program. To the extent groundwater monitoring finds exceedances of the GWPS attributable to Joppa West, EEI will be required to undertake a corrective actions assessment and prepare a corrective action plan to address those exceedances in accordance with Part 845. Additionally, during the interim adjusted standard period, EEI will collect additional data and conduct a characterization of Joppa West and surrounding groundwater to evaluate the “efficacy of the existing cover, geochemistry of the

groundwater environment, and groundwater transport potential.” Recommendation at 34. The proposed interim adjusted standard provides for EEI to do that through developing five years of data and providing a report “evaluating the remaining heavy metals for transport in the groundwater” and including “a mass transport model, a geochemical model, and a flow model . . .” as well as conducting a human health risk assessment and an ecological risk assessment. *See supra* at 12.

Thus, the proposed interim adjusted standard will not exempt Joppa West from meeting the same standards for protecting human health and the environment that apply to other units that are subject to Part 845. To the extent monitoring during the interim adjusted standard shows an exceedance of the GWPS in Section 845.600, corrective action will be required.

h. Section 104.406(h): How petitioner seeks to justify, under the applicable level of justification, the proposed adjusted standard

See Section IV, below.

i. Section 104.406(i): Reasons the Board may grant the adjusted standard consistent with federal law

The Board may grant the proposed adjusted standard consistent with federal law as discussed in the Petition, Recommendation, and Section IV, below. *See* Petition at 35; Recommendation at 38; *infra*, Section IV.

j. Section 104.406(j): A statement requesting or waiving a hearing on the petition

EEI withdraws its request for hearing.

k. Section 104.406(k): Citation to supporting documents.

EEI cited to documents and other information it relied upon for its Petition and cites to any additional documents or information it relies upon herein. *See* Petition at 40–41. EEI further attached and is attaching relevant portions of those documents and legal authorities other than Board decisions, State regulations, statutes, and reported cases.

IV. THE PROPOSED ADJUSTED STANDARD IS JUSTIFIED

a. Section 28.1(c)(1): Factors relating to the petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to petitioner

EEI maintains that factors relating to Joppa West are substantially and significantly different than the factors relied upon by the Board in adopting Part 845 for the reasons set forth in its Petition. Petition at 28–30. This includes the fact that Joppa West stopped operating and holding ponded water many years ago, is capped with soil (and clay in certain areas), as well as mature vegetation, shrubs and trees, and includes potential habitat for federally endangered bats.⁶ There are also several transmission lines and associated towers and power poles located atop Joppa West, which are owned and operated by a third party. Petition at 36–37. In contrast, most of the units regulated under Part 845 are not forested, not home to infrastructure, and contained ponded water and CCR under a hydraulic head as of October 2015, or at the very least more recently than Joppa West. That hydraulic head results in a different risk profile than a unit like Joppa West, which closed in the 1970s and supports dense vegetation and endangered species. Petition Ex. 21 at 21,342, 21,357 (noting that Part 257, Subpart D was intended to address risk from units “that contain a large amount of CCR managed with water, under a hydraulic head, that promotes the rapid leaching of contaminants”).⁷ Even assuming a historically closed unit containing CCR may

⁶ PC1 argues that 35 Ill. Admin. Code § 845.670(d) recognizes that vegetation and wildlife may be present on or near coal ash impoundments. PC1 at 24. However, Section 845.670(d) pertains to groundwater corrective action requirements, not closure. The proposed interim adjusted standard does not include an adjustment from the requirements in Section 845.670(d), it seeks an adjustment to the closure requirements. Significantly, neither of the closure alternatives provided for in Part 845 (closure via removal or closure in place) would allow for consideration of vegetation or wildlife at Joppa West, as there is no way to accomplish either form of closure without removing the forest growth (and transmission lines) at Joppa West. Petition, Exhibit 2 at 13–14.

⁷ PC1 argues that “older ponds” pose the same risk as ponds that stopped receiving ash more recently, citing to litigation involving a unit at another facility alleging violations of Illinois groundwater quality standards. PC1 at 24. PC1 provides no evidence of similarities between that unit and Joppa West. That said, assuming that unit was shown to pose some level of risk to groundwater, PC1 also presents no evidence it is the *same* level of risk as the units primarily relied upon to promulgate Part 845. Importantly, just because a unit that was historically closed may pose some threat to groundwater does not mean the level of risk is commensurate to that posed by other units that more

present a risk to groundwater, that does not eliminate Joppa West's other distinguishing factors (*i.e.* length of time since the unit was operated, the scope of cover and forestation, and the existence of third-party transmission lines), nor does the proposed interim adjusted standard request an adjustment that would allow Joppa West to pose a risk to groundwater.

IEPA's Recommendation suggests that Joppa West needs to be further characterized before its factors can be considered substantially and significantly different enough to justify a *permanent* adjusted standard, Recommendation at 37, and requests that such characterization be included as a condition to the interim adjusted standard. The agreed, proposed interim adjusted standard requires EEI conduct that further characterization of Joppa West and its impact to determine whether the unit's unique characteristics support a permanent adjusted standard.

b. Section 28.1(c)(2): Those factors justify an adjusted standard

EEI maintains that the factors relating to Joppa West justify an adjusted standard as set forth in its Petition. Petition at 30–31. With respect to this criteria, IEPA's Recommendation stated “[g]ranteeing of the Adjusted Standard should be contingent on whether geochemistry data and the groundwater analytical data support stable geochemistry and natural attenuation at the site, or if further corrective action is needed.” Recommendation at 38.

The interim adjusted standard proposed in this Response is of a temporary nature and allows time for EEI to collect geochemistry data and groundwater analytical data to determine whether the characteristics of Joppa West are unique enough to meet the GWPS under Section 845.600 without undergoing closure as specified in Part 845. Notably, since the time of IEPA's Recommendation, EEI and IEPA revised the proposed interim adjusted standard so that it does not

recently operated and contained ponded water. In such circumstances, risk could be adequately addressed via a different or modified form of closure.

excuse Joppa West from Part 845 groundwater corrective action requirements. Thus, if corrective action is needed, it will be undertaken. Accordingly, the interim adjusted standard is justified.

c. **Section 28.1(c)(3): The requested interim adjusted standard will not result in environmental or health effects substantially or significantly more adverse than the effects considered by the Board in adopting the rule of general applicability**

The interim adjusted standard will not result in any impacts on human health or the environment that are substantially or significantly more adverse than the effects considered by the Board in adopting Part 845. Part 845 is primarily concerned with protecting against the impacts of CCR surface impoundments on groundwater and sets GWPS as an indicator of protectiveness. R2020-019, Opinion and Order at 1 (“Among the program’s primary goals is protecting groundwater from contamination by CCR pollutants leaking from surface impoundments”). Under the interim adjusted standard, Joppa West will be subject to the GWPS in Section 845.600. Nothing in the interim adjusted standard exempts Petitioner from addressing groundwater exceedances caused or contributed to by Joppa West and taking corrective action to address exceedances when necessary.

IEPA expressed a concern (and PC1 argues) that the demonstration in the Petition of Joppa West’s lack of impact on human health and the environment, evidenced through a lack of current groundwater receptors, does not necessarily preclude a future receptor (*i.e.* “that a potential future owner will not want to use the available groundwater resource”). Recommendation at 34; PC1 at 20. EEI’s evaluation and determination of a lack of receptors helps characterize the area involved in the adjusted standard and the relevant receiving body of water (*see* 415 ILCS 5/27(a)). It demonstrates a lack of current risk. The proposed interim adjusted standard effectively addresses any concerns regarding future risk through its requirement for corrective action in accordance with Part 845 if Joppa West is found to present a potential future risk. Given that the corrective action requirements will apply as soon as Joppa West has submitted a groundwater monitoring plan under

Part 845, the interim adjusted standard will not result in any delay (other than the time period for completing this proceeding) in addressing GWPS exceedances as compared to other units regulated under Part 845.

The interim adjusted standard allows for EEI to develop evidence, based on five years of data, to demonstrate (1) groundwater contamination from Joppa West exceeding the groundwater protection standards in Section 845.600 is dispersing or diffusing in a manner that does not contribute to an exceedance of the groundwater protection standards in Section 845.600 outside of the facility property boundary, and, if applicable, (2) that the corrective action implementation is protective of human health and the environment. In the event EEI's demonstration is not successful, at the end of the interim adjusted standard period, Joppa West will have to meet the GWPS in Section 845.600 through other means, whether through alternative closure requirements as approved in an additional adjusted standard or through implementation of the full closure requirements in Part 845.

Thus, in no event will the interim adjusted standard result in environmental or health effects substantially or significantly more adverse than the effects considered by the Board when promulgating Part 845. Instead, it will be as, or potentially more, protective by requiring corrective action to address any GWPS exceedances and developing further evidence regarding the protection of human health and the environment.

d. Section 28.1(c)(4): Consistency with any Applicable Federal Law

The proposed interim adjusted standard meets the Section 28.1 criteria of consistency with federal law.

i. Background

In 2016, the Water Infrastructure Improvements for the Nation Act (the "WIIN Act") was enacted, providing USEPA with the authority to approve, in whole or in part, state CCR permit

programs to operate in lieu of a federal regulatory program. 42 U.S.C. § 6945(d). In 2019, the Illinois General Assembly enacted 415 ILCS 5/22.59, directing the Board to adopt comprehensive rules governing the construction, operation, and closure of CCR surface impoundments. This included a direction that “[t]he rules must, at a minimum . . . be at least as protective and comprehensive as the federal rules . . . promulgated by [USEPA] in [40 C.F.R. Part 257] governing CCR surface impoundments.” *Id.* The federal regulatory program that currently governs CCR surface impoundments is the 2015 federal CCR rule. IEPA and the Board expressed an intention to “obtain federal approval of Illinois’ CCR surface impoundment program” (*i.e.* the Part 845 regulations). R2020-019, Opinion and Order at 5; *see also* R2020-19, *In the Matter of Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845*, Illinois EPA Statement of Reasons at 10 (March 30, 2020). However, IEPA has not formally sought approval of the Part 845 program and such approval has not yet been received.⁸ Currently, both the 2015 federal CCR rule and Part 845 apply in Illinois, independently.

The Fourth Circuit has acknowledged that Part 845 is more stringent than the 2015 federal CCR rule, including in the scope of units it regulates. *See Midwest Generation, LLC*, 2024 IL App. (4th) 210304 at 16–17, 20–21. Meaning there are units, like Joppa West, that may be regulated under Part 845 that are not regulated under the 2015 federal CCR rule.

Recently, USEPA finalized a new rulemaking expanding the universe of areas to be regulated under Part 257, Subpart D to include “CCR management units” (or CCRMUs). 89 Fed. Reg. 38,950 at 39,100 (defining a “CCR management unit” as “any area of land on which any noncontainerized accumulation of CCR is received, is placed, or is otherwise managed, that is not

⁸ Thus far, USEPA has only approved state CCR permitting programs for Oklahoma, Georgia, Texas, and Alabama. *See* USEPA, *Permit Programs for Coal Combustion Residual Units*, available at <https://www.epa.gov/coalash/permit-programs-coal-combustion-residual-disposal-units#guidance> (attached as Exhibit 2).

a regulated CCR unit. This includes inactive CCR landfills and CCR units that closed prior to October 19, 2015 . . .”). The 2024 federal CCRMU rule is not effective until November 8, 2024. Further, the requirements for CCR management units under the 2024 federal CCRMU rule differ from the requirements that apply to CCR surface impoundments under the 2015 federal CCR rule, including but not limited to timelines that apply to the closure of units. 89 Fed. Reg. at 39,060. Current Part 845 does not regulate “CCR management units.”

ii. The interim adjusted standard is consistent with federal law

The proposed interim adjusted standard is consistent with federal law because Part 845 applies and operates independently and concurrently with Part 257. Therefore, any adjusted standard the Board grants from Part 845 is necessarily consistent with federal law. Further, to the extent the Board determines an interim adjusted standard from Part 845 must be consistent with the requirements of the 2015 federal CCR rule, the proposed interim adjusted standard is consistent with that rule. Finally, the 2024 federal CCRMU rule, when it becomes effective, would not make the interim adjusted standard inconsistent with federal law.

As an initial matter, Part 845 currently applies independently of any federal rule. While Congress has allowed USEPA to approve state CCR permit programs to operate in lieu of the 2015 federal CCR rule, Illinois’s Part 845 program is not federally approved (nor has it even been submitted for approval). Thus, currently, the Part 257 and Part 845 programs operate concurrently and independently of each other. Part 257 does not dictate what standards the State of Illinois must apply through Part 845 (nor does any other federal law). Providing an adjusted standard from obligations under Part 845 will not result in Illinois being out of compliance with any federally mandated obligation. Of course, IEPA has stated its intention to submit Part 845 for approval to operate in lieu of the 2015 federal CCR rule, and if that submission occurs, USEPA will review the program to ensure that Part 845 (including any adjusted standard granted to its requirements)

is at least as stringent as the requirements of Part 257. *See, e.g.*, AS 2009-004, *In the Matter of: Petition of Royal Fiberglass Pools, Inc. For An Adjusted Standard From 35 Ill. Adm. Code 215.301*, Order and Opinion of the Board at 14 (Feb. 18, 2010) (finding adjusted standard to Illinois Clean Air Act state implementation programs consistent with federal law and noting that the adjusted standard revisions would be submitted to USEPA for approval); AS 2000-012, *In the Matter of: Petition of Vonco Products, Inc. For An Adjusted Standard From 35 Ill. Adm. Code Sections 218.401(a), (b), and (c)*, Opinion and Order of the Board at 6 (Jan. 18, 2001) (same). The WIIN Act provides that a state program can deviate from the requirements in Part 257 “if, based on site-specific conditions, the Administrator determines that the technical standards established pursuant to a State permit program or other system are at least as protective as the criteria under that part.” 42 U.S.C. § 6945(d)(1)(C). That future question will be addressed in a future decision by USEPA, should IEPA submit Part 845 to USEPA for approval, but it is not an issue that must be addressed by the Board here to grant an adjusted standard.

Additionally, even if the Board decides an adjusted standard from Part 845 must, at a minimum, maintain consistency with the requirements in the 2015 federal CCR rule, the proposed interim adjusted standard meets that criterion because Joppa West is not subject to the 2015 federal CCR rule. IEPA has noted that “Petitioner does not consider the [Joppa West] to be regulated by Part 257, which is a self-implementing federal program. For this reason, the Board may grant the proposed adjusted standard consistent with federal law.” Recommendation at 38. In a February 4, 2021, communication to USEPA, IEPA identified Joppa West as a unit “not regulated by [40 C.F.R. §] 257.53.” Petition, Exhibit 10 at 5. Additionally, concurrently with finalizing the 2024 federal CCRMU rule, USEPA included Joppa West on a published list of units that it identified as CCR management units that are not regulated by the 2015 federal CCR rule. *See* USEPA, *List of*

CCR Management Units, available at https://www.epa.gov/system/files/documents/2024-04/copy-of-universe-of-ccr-management-units.-april-2024_0.pdf (attached as Exhibit 3); 89 Fed. Reg. at 39,100. Thus, by providing the temporary adjustment from Part 845's closure requirements, the Board would not be providing any relief from a requirement that would make its application of Part 845 inconsistent with the application of Part 257.⁹

Finally, the proposed interim adjusted standard's consistency with federal law is not impacted by the possibility that Joppa West may be subject to Part 257 at a future date under the 2024 federal CCRMU rule. The 2024 federal CCRMU rule is not yet effective and is separate and apart from Part 845. Part 845 was not intended to be co-extensive with, or to operate in lieu of, the 2024 federal CCRMU rule. As noted, to the extent the requirements in this new rule apply to Joppa West, they will do so under a different process and timeline. The relief the Board is granting through the interim adjusted standard will in no way be inconsistent with Joppa West's obligations under the separate federal requirements.

V. WITHDRAWAL OF REQUEST FOR HEARING

As noted above, EEI withdraws its request for hearing.

VI. CONCLUSION

EEI has conferred with IEPA, and IEPA agrees to the entry of an order granting the proposed interim adjusted standard as set forth in this Response, which incorporates the conditions

⁹ For these reasons, PC1's primary argument, that Joppa West is an "inactive CCR surface impoundment" under the 2015 federal CCR rules, is therefore without merit. The comment's argument relies largely on a letter from the USEPA to Duke Energy regarding its Gallagher Power Plant but cites to no evidence that USEPA considers Joppa West to be an inactive CCR surface impoundment. And, more importantly, the adjustment from closure requirements does not render the proposed interim adjusted standard or Part 845 less stringent or inconsistent with Part 257. Joppa West closed in the 1970s, the proposed interim adjusted standard requires compliance with the groundwater corrective action program set forth in Part 845 (which is more stringent than the federal CCR Rule) and does not relieve Joppa West from having to comply with the Part 845 closure requirements, it merely defers a decision on the application of the closure requirements.

set forth in IEPA's Recommendation. For the reasons stated above and the reasons stated in EEI's initial Petition, EEI respectfully requests that the Board grant the agreed interim adjusted standard.

Respectfully Submitted,

ELECTRIC ENERGY, INC.

By: /s/ Bina Joshi
One of its attorneys

Dated: June 5, 2024

ArentFox Schiff LLP
Attorney for Petitioner Electric Energy, Inc.
Joshua More
Bina Joshi
Sarah L. Lode
ArentFox Schiff LLP
233 South Wacker Drive
Suite 7100
Chicago, Illinois 60606
(312) 258-5600
joshua.more@afslaw.com
bina.joshi@afslaw.com
sarah.lode@afslaw.com

**Electric Energy, Inc.'s Response to Recommendation of
the Illinois Environmental Protection Agency to Petition
for Adjusted Standard**

EXHIBIT 1



Coal Ash

CONTACT US <https://epa.gov/coalash/forms/contact-us-about-coal-ash>

Coal Ash Home

<https://epa.gov/coalash>

Basics

<https://epa.gov/coalash/coal-ash-basics>

Reuse

<https://epa.gov/coalash/coal-ash-reuse>

Disposal Regulations

<https://epa.gov/coalash/coal-ash-rule>

Wastewater Discharge
Regulations

<https://epa.gov/eg/steam-electric-power-generating-effluent-guidelines>

Final Rule – Legacy Coal Combustion Residuals Surface Impoundments and CCR Management Units

On this page:

- [Rule Summary](#)
- [Rule History](#)

Rule Summary

On May 8, 2024, EPA finalized changes to the CCR regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR

Basic Information

Legal Authorities

- 42 U.S.C. §6907(a)
- 42 U.S.C. §6912(a)
- 42 U.S.C. §6944

Part A Demonstrations

<<https://epa.gov/coalash/coal-combustion-residuals-ccr-part-implementation>>

Part B Demonstrations

<<https://epa.gov/coalash/coal-combustion-residuals-ccr-part-b-implementation>>

Internet Sites

<<https://epa.gov/coalash/list-publicly-accessible-internet-sites-hosting-compliance-data-and-information-required>>

State Permit Programs

<<https://epa.gov/coalash/permit-programs-coal-combustion-residual-disposal-units>>

Implementation Frequent Questions

<<https://epa.gov/coalash/frequent-questions-about-implementing-final-rule-regulating-disposal-coal-combustion>>

surface impoundments." Within tailored compliance deadlines, owners and operators of legacy CCR surface impoundments must comply with all existing requirements applicable to inactive CCR surface impoundments at active facilities, except for the location restrictions and liner design criteria.

This action is in response to the August 21, 2018 opinion by the U.S. Court of Appeals for the District of Columbia Circuit (*Utility Solid Waste Activities Group, et al v. EPA*) that vacated and remanded the provision that exempted inactive impoundments at inactive facilities from the April 17, 2015 CCR rule <<https://epa.gov/coalash/coal-ash-rule#summary>>. These new regulations are also driven by the record, which clearly demonstrates that regulating legacy CCR surface impoundments will have significant public health and environmental benefits. This is because legacy CCR surface impoundments are more likely to be unlined and unmonitored, making them more prone to leaks and structural problems than units at utilities that are currently in service.

- 42 U.S.C. §6945 (a) and (d)

Federal Register Citations

- 89 FR 38950 (final rule) [↗](#)

<<https://www.federalregister.gov/documents/2024/05/08/2024-09157/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>>


Reuse Frequent Questions

<https://epa.gov/coalash/frequent-questions-about-beneficial-use-coal-ash>

Impoundment Assessment Effort





<https://epa.gov/coalash/effort-assess-coal-combustion-residuals-disposal-units>


In addition, through implementation of the 2015 CCR rule, EPA found areas at regulated CCR facilities where CCR was disposed of or managed on land outside of regulated units at CCR facilities, referred to as “CCR management units.” Groundwater monitoring shows CCR management units pose risks to groundwater and human health and the environment. So, in this final rule, EPA established groundwater monitoring, corrective action, closure, and post closure care requirements for all CCR management units (regardless of how or when that CCR was placed) at regulated CCR facilities. This rule advances the agency’s commitment to protecting communities, groundwater, waterways, drinking water, and the air from CCR contamination.

- Read the final rule. [🔗](https://www.federalregister.gov/documents/2024/05/08/2024-09157/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric)
<<https://www.federalregister.gov/documents/2024/05/08/2024-09157/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>>
-  Read the fact sheet for this final rule (pdf)
<https://www.epa.gov/system/files/documents/2024-04/legacy_ccrmu_final_fact_sheet_april2024.pdf> (198.1 KB) .

- 88 FR 77941 (NODA) [🔗](https://www.federalregister.gov/documents/2023/11/14/2023-24941/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric)
<<https://www.federalregister.gov/documents/2023/11/14/2023-24941/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>>
- 88 FR 31982 (proposed rule) [🔗](https://www.federalregister.gov/documents/2023/05/18/2023-10048/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric)
<<https://www.federalregister.gov/documents/2023/05/18/2023-10048/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>>

Electronic Filing: Received, Clerk's Office 06/05/2024


- Read the press release.
<<https://epa.gov/newsreleases/biden-harris-administration-finalizes-suite-standards-reduce-pollution-fossil-fuel>>
-  Read the list of Legacy CCR Surface Impoundments (pdf)
<https://www.epa.gov/system/files/documents/2024-04/copy-of-universe-of-legacy-ccr-surface-impoundments.-april-2024_0.pdf> (159 KB) .
-  Read the list of CCR Management Units (pdf)
<https://www.epa.gov/system/files/documents/2024-04/copy-of-universe-of-ccr-management-units.-april-2024_0.pdf> (228.4 KB) .
-  Read the list of CCRMU at other active facilities (pdf)
<https://www.epa.gov/system/files/documents/2024-04/copy-of-universe-of-ccrmu-at-other-active-facilities.-april-2024_0.pdf> (98.1 KB) .
-  Access the May 2024 presentation about the final rule (pdf)
<https://www.epa.gov/system/files/documents/2024-06/legacy_si_ccrmu_final_rule_may-2024_final.pdf> (704.2 KB) .

- 85 FR 65015 (ANPRM) 
<<https://www.federalregister.gov/documents/2020/10/14/2020-22058/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>>

Code of Federal Regulations Citations

- 40 CFR part 257 

Docket Numbers

- EPA-HQ-OLEM-2020-0107 
<<https://www.regulations.gov/docket/epa-hq-olem-2020-0107>>

Effective Date

- November 8, 2024

Frequently Asked Question About the Effective Date

Question: What is the effective date of the “Legacy CCR Surface Impoundments” final rule? The “DATES” section of the preamble (89 FR 38950 [↗](https://www.federalregister.gov/documents/2024/05/08/2024-09157/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric)) indicates that the rule is effective on November 4, 2024. However, the compliance time frames for certain requirements with a deadline based on the rule’s effective date specify November 8, 2024, e.g., Table 1 of the preamble at 89 FR 39005 and corresponding regulatory text beginning at 89 FR 39099.

Response: EPA is aware of an inconsistency between the effective date specified in the “DATES” section of the preamble and the compliance time frames specified in the regulatory text. The “DATES” section of the preamble specifying November 4, 2024, as the effective date of the final rule is incorrect and is based on a typographical error. The correct effective date of the rule is November 8, 2024, as is specified elsewhere in the preamble and the regulatory text. EPA intends to publish in the future a notice in the Federal Register clarifying that the effective date of the Legacy CCR Surface Impoundment rule is November 8, 2024. Given that this future clarification notice will require no changes to the regulatory text, owners and operators should plan to comply with the deadlines specified in part 257, subpart D [↗](#), which are correct as codified.

Rule History

2015 Final Rule

In April 2015, EPA finalized national regulations to provide a comprehensive set of requirements for the safe disposal of coal ash from coal-fired power plants. These regulations include technical standards that prevent the leaking of contaminants into groundwater, blowing of contaminants into the air as dust, and catastrophic failure of coal ash surface impoundments. Additionally, the rule sets out inspection, monitoring, recordkeeping, and reporting requirements and makes transparency a cornerstone of the program by requiring facilities to post compliance data online on a facility-established, publicly available website.

The 2015 rule imposed requirements on inactive surface impoundments at active facilities, but did not impose requirements on inactive surface impoundments at inactive facilities. Several parties challenged the 2015 rule including, among other provisions, the exemption for inactive surface impoundments at inactive power plants from regulation.

The U.S. Court of Appeals for the D.C. Circuit issued its decision on August 21, 2018. The Court held that EPA acted “arbitrarily and capriciously and contrary to RCRA” in exempting inactive surface impoundments at inactive power plants from regulation. The court ordered that these provisions be vacated and remanded back to the Agency (*Utility Solid Waste Activities Group, et al. v. EPA*, 901 F.3d 414, D.C. Cir. 2018).

Advance Notice of Proposed Rulemaking

In October 2020, EPA requested comments and data on inactive surface impoundments at inactive electric utilities to assist in the development of future regulations for these CCR units. EPA requested input on a potential definition of a legacy CCR surface impoundment and specifically solicited information on the types of inactive surface impoundments at inactive facilities that might be considered legacy surface impoundments. Finally, the Agency took comment on EPA's regulatory authority, the appropriate regulatory approach for these units and the timeframes to come into compliance with those regulations.

- Access this notice in the Federal Register. [🔗](#)

<https://www.federalregister.gov/documents/2020/10/14/2020-22058/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>

Proposed Rule

On May 18, 2023, EPA proposed changes to CCR regulation for legacy CCR surface impoundments and CCR management units. EPA collected public comments on the proposal through July 17, 2023. EPA hosted an in-person hearing and an online public hearing.

- Read the proposal. [🔗](#) <https://www.federalregister.gov/public-inspection/2023-10048/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>

Electronic Filing: Received, Clerk's Office 06/05/2024

- Read a fact sheet about this proposal:
 - Arabic (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_ara.pdf>
 - Chinese (simplified) 中文: 简体版 (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_chs.pdf>
 - Chinese (traditional) 中文: 繁體版 (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_cht.pdf>
 - English (pdf). <https://epa.gov/system/files/documents/2023-06/legacyccrmuproposal_factsheet_june2023_508.pdf>
 - Korean (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_kor.pdf>
 - Russian русский (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_rus.pdf>
 - Spanish Español (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_spa.pdf>
 - Tagalog (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_tag.pdf>
 - Vietnamese Việt-ngữ (pdf). <https://epa.gov/system/files/documents/2023-06/legacy_ccrmu_proposal%20fact_sheet_june2023_vie.pdf>
- Access the May 2023 press release announcing the proposal.
<<https://epa.gov/newsreleases/epa-announces-latest-action-protect-communities-coal-ash-contamination>>
- Read through the comments submitted for this proposal. 
<<https://www.regulations.gov/docket/epa-hq-olem-2020-0107/comments>>

- Access a transcript of the in-person hearing in the docket. [🔗](https://www.regulations.gov/document/epa-hq-olem-2020-0107-0377)
<<https://www.regulations.gov/document/epa-hq-olem-2020-0107-0377>>
- Access a transcript of the online public hearing in the docket. [🔗](https://www.regulations.gov/document/epa-hq-olem-2020-0107-0778)
<<https://www.regulations.gov/document/epa-hq-olem-2020-0107-0778>>

Notice of Data Availability

On November 7, 2023, the EPA Administrator signed a notice of data availability related to this proposed rule. EPA made available new information and data pertaining to the Agency's May 18, 2023 proposed changes about legacy CCR surface impoundments and CCR management units. Some of the information includes data or analyses received during the comment period for the proposed rule and that could support the development of the final rule. It also includes information obtained based on further EPA research conducted both during and after the close of the comment period, which was not available for public comment during the prior comment period on the proposed rule.

EPA welcomed public comment on this additional information through December 11, 2023.

- Access the notice. <<https://www.federalregister.gov/documents/2023/11/14/2023-24941/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>>

Electronic Filing: Received, Clerk's Office 06/05/2024

- Draft Supplemental Risk Assessment, October 2023.
<<https://www.regulations.gov/document/epa-hq-olem-2020-0107-0887>>
 - Groundwater Modeling Input and Output Files (Attachments C-1 and C-2):
 - Attachment C-1: EPA Composite Model for Leachate Migration with Transformation Products inputs and associated outputs for impoundments (zip) <https://epa.gov/system/files/other-files/2023-11/attachment_c_1_impoundments.zip>(260.533 MB).
 - Attachment C-1: EPACMTP inputs and outputs for landfills (zip) <https://epa.gov/system/files/other-files/2023-11/attachment_c_1_landfills.zip>(116.585 MB).
 - Attachment C-2: EPACMTP inputs for CCR management unit fills (zip) <https://epa.gov/system/files/other-files/2023-11/fills_ash_inputs_chemtables_final.zip> (61.534 MB).
 - Attachment C-2: EPACMTP outputs for CCR management unit fills (zip) <https://epa.gov/system/files/other-files/2023-11/fills_ash_riskresult_outputs_final.zip> (44.677 MB).

Contact Us <<https://epa.gov/coalash/forms/contact-us-about-coal-ash>> to ask a question, provide feedback, or report a problem.

LAST UPDATED ON JUNE 4, 2024



Discover.

Accessibility Statement

<<https://epa.gov/accessibility/epa-accessibility-statement>>

Budget & Performance

<<https://epa.gov/planandbudget>>

Contracting

<<https://epa.gov/contracts>>

EPA www Web Snapshot

<<https://epa.gov/utilities/wwwepagov-snapshots>>

Grants <<https://epa.gov/grants>>

No FEAR Act Data

<<https://epa.gov/ocr/whistleblower-protections-epa-and-how-they-relate-non-disclosure-agreements-signed-epa>>

Plain Writing

<<https://epa.gov/web-policies-and-procedures/plain-writing>>

Privacy <<https://epa.gov/privacy>>

Connect.

Data <<https://epa.gov/data>>

Inspector General

<<https://www.epaoig.gov/>>

Jobs <<https://epa.gov/careers>>

Newsroom

<<https://epa.gov/newsroom>>

Regulations.gov [🔗](https://www.regulations.gov/)

<<https://www.regulations.gov/>>

Subscribe

<<https://epa.gov/newsroom/email-subscriptions-epa-news-releases>>

USA.gov [🔗](https://www.usa.gov/)

<<https://www.usa.gov/>>

White House [🔗](https://www.whitehouse.gov/)

<<https://www.whitehouse.gov/>>

Ask.

Contact EPA

<<https://epa.gov/home/forms/contact-epa>>

EPA Disclaimers

<<https://epa.gov/web-policies-and-procedures/epa-disclaimers>>

Hotlines

<<https://epa.gov/aboutepa/epa-hotlines>>

FOIA Requests

<<https://epa.gov/foia>>

Frequent Questions

<<https://epa.gov/home/frequent-questions-specific-epa-programtopics>>

Follow.



**Privacy and Security
Notice**

<<https://epa.gov/privacy/privacy-and-security-notice>>

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:

PETITION OF ELECTRIC ENERGY, INC.
FOR A FINDING OF INAPPLICABILITY
OR, IN THE ALTERNATIVE, AN
ADJUSTED STANDARD FROM
35 ILL. ADMIN. CODE PART 845

AS 2021-005
(Adjusted Standard)

**INDEX OF EXHIBITS FOR ELECTRIC ENERGY, INC.'S RESPONSE
TO RECOMMENDATION OF THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY TO PETITION FOR ADJUSTED STANDARD**

- Exhibit 1 USEPA, *Final Rule – Legacy Coal Combustion Residuals Surface Impoundments and CCR Management Units*, available at <https://www.epa.gov/coalash/final-rule-legacy-coal-combustion-residuals-surface-impoundments-and-ccr-management-units>
- Exhibit 2 USEPA, *Permit Programs for Coal Combustion Residual Units*, available at <https://www.epa.gov/coalash/permit-programs-coal-combustion-residual-disposal-units#guidance>
- Exhibit 3 USEPA, *List of CCR Management Units*, available at https://www.epa.gov/system/files/documents/2024-04/copy-of-universe-of-ccr-management-units.-april-2024_0.pdf

**Electric Energy, Inc.'s Response to Recommendation of
the Illinois Environmental Protection Agency to Petition
for Adjusted Standard**

EXHIBIT 2



Permit Programs for Coal Combustion Residual Disposal Units

- [About the Water Infrastructure Improvements for the Nation Act \(WIIN Act\)](#)
- [Permit Programs in Indian Country](#)
- [Relationship Between State Coal Combustion Residuals Permit Programs and State Solid Waste Management Plans](#)
- [State Permit Program Guidance](#)
- [Individual State Permit Programs](#)

About the Water Infrastructure Improvements for the Nation Act

Congress passed and the President signed the WIIN Act in 2016. Section 2301 [↗](#)

<[https://www.congress.gov/bill/114th-congress/senate-bill/612/text#toc-](https://www.congress.gov/bill/114th-congress/senate-bill/612/text#toc-h91a0b3dcf1d14c6c92588ddaa897b03b)

[h91a0b3dcf1d14c6c92588ddaa897b03b](https://www.congress.gov/bill/114th-congress/senate-bill/612/text#toc-h91a0b3dcf1d14c6c92588ddaa897b03b)> of the Act amends Section 4005 of the Resource Conservation and Recovery Act <<https://epa.gov/rcra>> to provide for state coal combustion residuals permit programs. The law also provides EPA additional authorities, including the authority to review and approve state CCR permit programs. The major provisions of Section 2301 of the WIIN Act include:

- States may, but are not required to, develop and submit a CCR permit (“or other system of prior approval”) program to EPA for approval.

- The program does not have to be identical to the current CCR rule, found in Title 40 of the Code of Federal Regulations (CFR) Part 257 subpart D [☑](#), but must be at least “as protective as” the CCR rule.
- EPA has 180 days to act on a complete State submission; EPA must provide public notice and an opportunity for comment prior to EPA approval.
- EPA may approve a program “in whole or in part.”
- Once approved, the State permit program operates “in lieu of” the federal CCR rule.
- The CCR rule applies to a CCR unit until a permit is in effect for that unit.
- In States that do not have an approved permit program (“non-participating States”), EPA must implement a permit program, “subject to the availability of appropriations specifically provided to carry out a program...”
- EPA must implement a permit program in Indian Country.
- EPA may use its information gathering and enforcement authorities under RCRA Sections 3007 and 3008 to enforce the CCR rule or permit provisions.
- EPA must review State permit programs at least once every 12 years and in certain specific situations.

Permit Programs in Indian Country

The WIIN Act requires EPA to establish and carry out a permit program for CCR units in Indian Country to achieve compliance with the current CCR rule. Three facilities in Indian Country have CCR disposal units. EPA is coordinating with the affected Tribes to develop appropriate permits for the three facilities.

Relationship Between State CCR Permit Programs and State Solid Waste Management Plans

Early in the development of today's waste management infrastructure, states were encouraged to effectively plan for and manage their solid wastes through the creation of Solid Waste Management Plans. A Solid Waste Management Plan is a document that outlines how a state will plan and manage its solid waste.

Currently, most states have SWMPs that have been submitted to and approved by EPA. EPA recommends that states take advantage of this process, already in the regulations, by revising their SWMPs to address the issuance of the CCR rule and to submit revisions of these plans to EPA for approval. The SWMP serves as a mechanism for states to set out, as part of their overall solid waste programs, how they intend to regulate CCR landfills and surface impoundments.

States can submit SWMPs for approval in several ways. If a regulatory agency wants to have their SWMP approved of before state CCR regulations have been adopted, they can submit the plan based on the expectation of the regulations being put in place.

These SWMPs can receive approval conditioned on adoption of those state CCR regulations. A state can also initially submit a plan dealing only with compliance schedules. This would be considered a partial approval and can be granted provided the state agrees to submit an entire plan in a timely fashion.

More Information

- Read more about Kansas' SWMP approval.
<<https://epa.gov/coalas/h/us-state-kansas-solid-waste-management-plan-approval>>
- Find out more about Indiana's conditional SWMP approval
<<https://epa.gov/coalas/h/us-state-indiana-coal-combustion-residuals-solid-waste-management-plan-amendment-approval>>.

EPA recognizes that some states have already adopted requirements that go beyond the minimum federal requirements. The CCR rule will not affect these state requirements; moreover, the final rule does not preclude a state from adopting more stringent requirements where they deem that appropriate.

Three states have updated their SWMPs to incorporate how they intend to regulate CCR landfills and surface impoundments since the promulgation of the federal CCR regulations in 40 CFR Part 257 [↗](#).

Approval of a SWMP and a state CCR permit program are fundamentally different. Approval of a SWMP allows a state to grant facilities extra time regarding compliance schedules to meet regulatory requirements; however, the federal CCR rule still applies to the facilities. Approval of a state CCR permit program means that, once a permit is issued, the requirements of that permit operate "in lieu of" the federal rule.

Below is a chart comparing SWMPs and state CCR permit programs:

State CCR Permit Program	State SWMP
<ul style="list-style-type: none"> • WIIN Section 2301, amends RCRA Section 4005. • EPA enforcement authority for CCR rule under 3007 and 3008. • State may develop and submit CCR permit program to EPA for approval. • Program may be different from, but must be “as protective as” federal rule. • EPA has 180 days to approve/disapprove a permit program. • Public notice and opportunity for comment required. • Permit operates “in lieu of” federal rule. • Until permit is issued federal CCR rule applies. 	<ul style="list-style-type: none"> • RCRA Sections 4002, 4003, 4005(a), 4006, and 4007. • SWMPs are to encourage and facilitate solid waste management planning. • EPA required to promulgated guidelines for SWMPs. • Minimum requirements for plans (4003)– must prohibit establishment of new open dumps and provide for closing or upgrading of existing open dumps. • EPA has 6 months to approve a SWMP. • Approved SWMP allows State to set a schedule for compliance for an entity that cannot meet regulatory requirements; schedule cannot exceed 5 years from promulgation of regulations. • Federal regulations remain applicable to all units.

State Permit Program Guidance

EPA has developed an interim final guidance document that provides information about the provisions of the 2016 WIIN Act related to CCR as well as the process and procedures EPA will generally use to review and make determinations on state CCR permit programs. The guidance document is divided into four chapters. The first two

chapters are in the form of questions and answers about the WIIN Act and the state permit program approval process. The third and fourth chapters consist of checklists to aid states as they consider and develop their program submittals.

EPA released this interim final guidance in the *Federal Register* on August 15, 2017 [↗](https://www.federalregister.gov/documents/2017/08/15/2017-17270/release-of-interim-final-guidance-for-state-coal-combustion-residuals-permit-programs-comment)
<<https://www.federalregister.gov/documents/2017/08/15/2017-17270/release-of-interim-final-guidance-for-state-coal-combustion-residuals-permit-programs-comment>> and received public comment via Regulations.gov through September 14, 2017.

- Access the Interim Final CCR State Permit Program Guidance Document
<<https://epa.gov/coalash/guidance-coal-combustion-residuals-state-permit-programs>>

Individual State Permit Programs

As discussed above, EPA now has the authority to approve State CCR permitting programs. When EPA receives a permit program submission from a state, EPA will review the submission to ensure that the submission includes all the required elements. EPA will send a letter to the state informing them that their submission is complete ("completeness letter"). The issuance of this letter officially marks the beginning of the 180 days that EPA has to make a determination on a State program submission.

During these 180 days, EPA will publish a *Federal Register* notice providing its initial determination and offering the public an opportunity to comment and the opportunity for a public hearing. EPA plans to post completeness letters when they are released and will ultimately post the information and documents associated with permit program submissions once the *Federal Register* notices are published proposing determinations.

Find out more about:

- Oklahoma's program approval. <<https://epa.gov/coalash/us-state-oklahoma-coal-combustion-residuals-permit-program>>
- Georgia's program approval <<https://epa.gov/coalash/us-state-georgia-coal-combustion-residuals-ccr-permit-program>>.

Electronic Filing: Received, Clerk's Office 06/05/2024

- [Texas' program approval.](https://epa.gov/coalash/us-state-texas-coal-combustion-residuals-ccr-permit-program) <<https://epa.gov/coalash/us-state-texas-coal-combustion-residuals-ccr-permit-program>>
- [Alabama's program denial.](https://epa.gov/coalash/us-state-alabama-coal-combustion-residuals-permit-program) <<https://epa.gov/coalash/us-state-alabama-coal-combustion-residuals-permit-program>>

[Coal Ash Home](https://epa.gov/coalash) <<https://epa.gov/coalash>>

[Basics](https://epa.gov/coalash/coal-ash-basics) <<https://epa.gov/coalash/coal-ash-basics>>

[Reuse](https://epa.gov/coalash/coal-ash-reuse) <<https://epa.gov/coalash/coal-ash-reuse>>

[Disposal Regulations](https://epa.gov/coalash/coal-ash-rule) <<https://epa.gov/coalash/coal-ash-rule>>

[Wastewater Discharge Regulations](https://epa.gov/eg/steam-electric-power-generating-effluent-guidelines) <<https://epa.gov/eg/steam-electric-power-generating-effluent-guidelines>>

[Part A Demonstrations](https://epa.gov/coalash/coal-combustion-residuals-ccr-part-implementation) <<https://epa.gov/coalash/coal-combustion-residuals-ccr-part-implementation>>

[Part B Demonstrations](https://epa.gov/coalash/coal-combustion-residuals-ccr-part-b-implementation) <<https://epa.gov/coalash/coal-combustion-residuals-ccr-part-b-implementation>>

[Internet Sites](https://epa.gov/coalash/list-publicly-accessible-internet-sites-hosting-compliance-data-and-information-required) <<https://epa.gov/coalash/list-publicly-accessible-internet-sites-hosting-compliance-data-and-information-required>>

State Permit Programs

[Implementation Frequent Questions](https://epa.gov/coalash/frequent-questions-about-implementing-final-rule-regulating-disposal-coal-combustion) <<https://epa.gov/coalash/frequent-questions-about-implementing-final-rule-regulating-disposal-coal-combustion>>

[Reuse Frequent Questions](https://epa.gov/coalash/frequent-questions-about-beneficial-use-coal-ash) <<https://epa.gov/coalash/frequent-questions-about-beneficial-use-coal-ash>>

[Impoundment Assessment Effort](https://epa.gov/coalash/effort-assess-coal-combustion-residuals-disposal-units) <<https://epa.gov/coalash/effort-assess-coal-combustion-residuals-disposal-units>>

[Contact Us](https://epa.gov/coalash/forms/contact-us-about-coal-ash) <<https://epa.gov/coalash/forms/contact-us-about-coal-ash>> to ask a question, provide feedback, or report a problem.

LAST UPDATED ON MAY 23, 2024



Discover

- **Accessibility Statement**

<<https://epa.gov/accessibility/epa-accessibility-statement>>

Budget & Performance

<<https://epa.gov/planandbudget>>

Contracting

<<https://epa.gov/contracts>>

EPA www Web Snapshot

<<https://epa.gov/utilities/wwwepagov-snapshots>>

Grants

<<https://epa.gov/grants>>

No FEAR Act Data

<<https://epa.gov/ocr/whistleblower-protections-epa-and-how-they-relate-non-disclosure-agreements-signed-epa>>

Plain Writing

<<https://epa.gov/web-policies-and-procedures/plain-writing>>

Connect.

Data

<<https://epa.gov/data>>

Inspector General

<<https://www.epaoig.gov/>>

Jobs

<<https://epa.gov/careers>>

Newsroom

<<https://epa.gov/newsroom>>

Regulations.gov

<<https://www.regulations.gov/>>

Subscribe

<<https://epa.gov/newsroom/email-subscriptions-epa-news-releases>>

USA.gov

<<https://www.usa.gov/>>

White House

<<https://www.whitehouse.gov/>>

Ask.

Contact EPA

<<https://epa.gov/home/forms/contact-epa>>

EPA Disclaimers

<<https://epa.gov/web-policies-and-procedures/epa-disclaimers>>

Hotlines

<<https://epa.gov/aboutepa/epa-hotlines>>

FOIA Requests

<<https://epa.gov/foia>>

Frequent Questions

<<https://epa.gov/home/frequent-questions-specific-epa-programstopics>>

Follow.



Privacy

<<https://epa.gov/privacy>>

**Privacy and
Security Notice**

<[https://epa.gov/privacy/
privacy-and-security-
notice](https://epa.gov/privacy/privacy-and-security-notice)>

**Electric Energy, Inc.'s Response to Recommendation of
the Illinois Environmental Protection Agency to Petition
for Adjusted Standard**

EXHIBIT 3

Region	State	Plant Name	Unit Name	CCR Weblink	In Proposal?
5	IN	AES Petersburg	Ash Pond D	http://ccr-petersburg.com/Home/default.aspx	Yes
5	IN	AES Petersburg	Ash pond B	http://ccr-petersburg.com/Home/default.aspx	Yes
2	NY	Albany Steam Power Station (Bethlehem Energy Center)	Beacon Island	(not regulated)	No
8	ND	Antelope Valley	Landfill	https://www.basinelectric.com/environment/coal-combustion-residuals-ccr-rule-compliance-data-and-information/	No
8	CO	Arapahoe	Discharge Pond	https://www.xcelenergy.com/stateselector?stateSelected=true&goto=%2Fcoal_ash_management	Yes
8	CO	Arapahoe	Emergency Pond	https://www.xcelenergy.com/stateselector?stateSelected=true&goto=%2Fcoal_ash_management	Yes
8	CO	Arapahoe	Ash Pump Pond	https://www.xcelenergy.com/coal_ash_management	No
8	CO	Arapahoe	South Storm Water/Process Water Pond	https://www.xcelenergy.com/coal_ash_management	No
8	CO	Arapahoe	North Storm Water/Process Water Pond	https://www.xcelenergy.com/coal_ash_management	No
5	MN	Austin Northeast	Solid waste disposal area	https://www.austinutilities.com/pages/CCRRule/	Yes
5	MI	B C Cobb	CCR disposed below Bottom Ash Pond	https://merg-ccrrule.com/	Yes
5	MI	B C Cobb	CCR disposed below Ponds 0-8	https://merg-ccrrule.com/	Yes
5	IL	Baldwin Energy Complex	Secondary Pond	https://www.luminant.com/ccr/	Yes
5	IL	Baldwin Energy Complex	Tertiary Pond	https://www.luminant.com/ccr/	Yes
5	MI	Belle River	ash landfill pond	https://www.dteenergy.com/us/en/residential/community-and-news/environment/coal-combustion-residual-rule-compliance-data-and-information.html	No
5	MN	Black Dog	Legacy On site Ash Basin	https://www.xcelenergy.com/coal_ash_management	Yes
8	UT	Bonanza	Historical unit	https://apps.deseretpower.com/apex/f?p=400:40:15000612199970::NO::	Yes
4	GA	Bowen	Impoundment	https://www.georgiapower.com/company/environmental-compliance/plant-list/plant-bowen.html	No
5	IN	Breed	Landfill	(not regulated)	Yes
3	PA	Brunner Island	Ash Basin 5	https://www.talenenergy.com/generation/fossil-fuels/ccr-brunner-island	Yes
4	TN	Bull Run	Bottom Ash Disposal Area 1	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Bull Run	BRF/KIF Regional Landfill	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Bull Run	Dry Fly Ash Disposal Area	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Bull Run	East/West Dredge Cell	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Bull Run	Gypsum Disposal Area 2A	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	KY	Cane Run	Legacy landfill	https://lge-ku.com/CCR	Yes
5	IN	Cayuga (IN)	Historical Ash Ponds	https://www.duke-energy.com/environment/reports/ccr-compliance.asp	Yes
2	NY	Cayuga (NY)	Landfill Phase 1	scoc1.weebly.com	Yes
2	NY	Cayuga (NY)	Landfill Phase 2	scoc1.weebly.com	Yes
3	VA	Chesapeake	Historical Pond	https://www.dominionenergy.com/projects-and-facilities/electric-projects/coal-ash/ccr-rule-compliance-data-and-information	Yes
3	VA	Chesapeake	Lined Landfill	https://www.dominionenergy.com/projects-and-facilities/electric-projects/coal-ash/ccr-rule-compliance-data-and-information	Yes
5	MN	Clay Boswell	Closed Fly Ash Pond	http://mp-ccr.azurewebsites.net/Boswell	Yes
5	IN	Clifty Creek	Type III Landfill	http://www.ovec.com/CCRClifty.php	Yes
3	VA	Clinch River	Ash Pond 2	https://www.aep.com/about/codeofconduct/CCRRule/	Yes
8	ND	Coal Creek	CCR disposed below Upstream Raise 91 impoundment	http://ccr.greatriverenergy.com/	Yes
8	ND	Coal Creek	Landfill 1	https://ccr.rainbowenergycenter.com/	No
8	ND	Coal Creek	Landfill 2	https://ccr.rainbowenergycenter.com/	No
8	ND	Coal Creek	Landfill 3	https://ccr.rainbowenergycenter.com/	No
8	ND	Coal Creek	Landfill 4	https://ccr.rainbowenergycenter.com/	No
8	ND	Coal Creek	Landfill 5	https://ccr.rainbowenergycenter.com/	No
5	IL	Coffeen	Fly Ash Landfill & FGD Reclaim Pond	https://www.luminant.com/ccr/#coffeen	No
4	AL	Colbert	#5 Dry Stack (fly ash)	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	AL	Colbert	#5 Inactive Ash Pond	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	AL	Colbert	#5 Stilling Pond	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	AL	Colbert	Copper Pond / Ash Pond 4	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	AL	Colbert	Old #1 Ash Pond	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
8	MT	Colstrip Energy LP	Landfill 1	https://www.talenenergy.com/ccr-colstrip/	No
8	MT	Colstrip Energy LP	Landfill 2	https://www.talenenergy.com/ccr-colstrip/	No
8	MT	Colstrip Energy LP	1 & 2 A Pond	https://www.talenenergy.com/ccr-colstrip/	Yes
8	MT	Colstrip Energy LP	Former 1&2 Bottom Ash Pond	https://www.talenenergy.com/ccr-colstrip/	Yes
8	MT	Colstrip Energy LP	1&2 Step B Cell	https://www.talenenergy.com/ccr-colstrip/	Yes
8	MT	Colstrip Energy LP	Stage 1 Evap Pond	https://www.talenenergy.com/ccr-colstrip/	Yes
8	MT	Colstrip Energy LP	A Cell	https://www.talenenergy.com/ccr-colstrip/	Yes
5	WI	Columbia (WI)	Closed Ash Ponds Landfill	http://ccr.alliantenergy.com/	Yes
5	OH	Conesville	Historical Ash Pond	https://conesvilleindustrialpark.com/	Yes
5	OH	Conesville	Pozzotec Landfill	https://conesvilleindustrialpark.com/	Yes
4	KY	Cooper	Former surface impoundment	https://www2.ekpc.coop/CCR_Rule_Compliance_Data_and_Information.html	Yes
4	SC	Cope	Landfill Leachate Pond	https://www.dominionenergy.com/projects-and-facilities/electric-projects/coal-ash/ccr-rule-compliance-data-and-information	Yes
4	SC	Cope	Class II Landfill	https://www.dominionenergy.com/projects-and-facilities/electric-projects/coal-ash/ccr-rule-compliance-data-and-information	Yes
9	AZ	Coronado	Retired LF	https://ccr.srpnet.com/	No
8	ND	Coyote	Landfill 1	http://www.ccr-cs.net/	No
8	ND	Coyote	Landfill 2	http://www.ccr-cs.net/	No
8	ND	Coyote	Landfill 3	http://www.ccr-cs.net/	No
5	IL	Crawford Generating Station	Coal Ash Fill	(not regulated)	No
5	MI	Dan E Karn	Underlying fill	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals#de-karn	Yes
5	MI	Dan E Karn	Bottom Ash Pond	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals#de-karn	Yes
4	NC	Dan River	Former Ash Stack 1	http://www.duke-energy.com/environment/reports/ccr-compliance.asp	Yes

3	MD	Dickerson	Cell C	https://www.genon.com/ccr-rule-compliance	Yes
4	KY	E W Brown	Main Ash Pond	https://lge-ku.com/CCR	Yes
5	IN	Eagle Valley	Exempt Pond D	http://ccr-eaglevalley.com/Home/default.aspx	Yes
5	IN	Eagle Valley	Exempt Pond E	http://ccr-eaglevalley.com/Home/default.aspx	Yes
5	WI	Edgewater	Ash Disposal Facility	http://ccr.alliantenergy.com/	Yes
5	WI	Edgewater	Original CCR surface impoundment	http://ccr.alliantenergy.com/	Yes
5	MI	Erickson Station	Impoundment system	http://www.lbw.com/CCR-Rule-Compliance-Data-and-Information/	Yes
3	WV	FirstEnergy Pleasants Power Station	Downstream portion of impoundment dam	http://ccrdocs.firstenergycorp.com/	Yes
9	NM	Four Corners	Fill around CWPT	https://www.aps.com/en/Utility/Regulatory-and-Legal/Environmental-Compliance	Yes
4	TN	Gallatin	Fly ash sluicing stream	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	Yes
5	OH	General James M Gavin	Bottom Ash Pond	http://gavinpowerccr.com/	No
7	NE	Gerald Gentleman	Historically placed CCR	https://www.nppd.com/ccr-rule-compliance	Yes
5	IN	Gibson	Aggregate Landfill (26-02)	https://www.duke-energy.com/our-company/environment/compliance-and-reporting/ccr-rule-compliance-data	No
5	IN	Gibson	East Pond #1	https://www.duke-energy.com/our-company/environment/compliance-and-reporting/ccr-rule-compliance-data	No
5	IN	Gibson	East Pond #2	https://www.duke-energy.com/our-company/environment/compliance-and-reporting/ccr-rule-compliance-data	No
5	IN	Gibson	East Pond #3	https://www.duke-energy.com/our-company/environment/compliance-and-reporting/ccr-rule-compliance-data	No
5	OH	Gorsuch	Landfill	(not regulated)	Yes
4	GA	Hammond	Ash Pond 4	https://www.georgiapower.com/company/environmental-compliance/plant-list/plant-hammond.html	No
5	IN	Harding Street	Former Pond 2	http://ccr-hardingstreet.com/Home/default.aspx	Yes
5	IN	Harding Street	Former Pond 4A	http://ccr-hardingstreet.com/Home/default.aspx	Yes
5	IN	Harding Street	Former Pond 4B	http://ccr-hardingstreet.com/Home/default.aspx	Yes
5	IN	Harding Street	Former Pond 4	http://ccr-hardingstreet.com/Home/default.aspx	Yes
3	PA	Hatfields Ferry Power Station	Unidentified Cobalt Source (likely the Leachate Storage Impoundment)	http://ccrdocs.firstenergycorp.com/	Yes
10	AK	Healy	Historical Ash Handling Area	https://www.gvea.com/ccr-rule-compliance/?doing_wp_cron=1613578909.1270420551300048828125	Yes
5	IL	Hennepin Power Station	Ash Pond No. 4	https://www.luminant.com/ccr/#hennepin	Yes
3	PA	Homer City Generating Station	Subsurface Mixing Cells	http://www.homercitygenerationccr.com/	Yes
3	PA	Homer City Generating Station	Leachate Mixing Pond	http://www.homercitygenerationccr.com/	Yes
3	PA	Homer City Generating Station	Leachate Polishing Pond	http://www.homercitygenerationccr.com/	Yes
8	UT	Huntington	Old Landfill	http://www.berkshirehathawayenergyco.com/ccr/ppw.html	Yes
8	UT	Huntington	Historic Landfills	http://www.berkshirehathawayenergyco.com/ccr/ppw.html	Yes
5	AR	Independence Steam Electric Station	CADL Cells 1-11	http://www.entergy-arkansas.com/ccr/indy/	Yes
6	AR	Independence Steam Electric Station	CADL Roadbed BU	http://www.entergy-arkansas.com/ccr/indy/	Yes
5	MI	J B Sims	Ash and waste fill materials	https://ghblp.org/about-us/reports/ccr-rule-compliance-data-and-information/	Yes
5	MI	J B Sims	CCR Disposed below Unit 3 Impoundment	https://ghblp.org/about-us/reports/ccr-rule-compliance-data-and-information/	Yes
5	MI	J H Campbell	Pond B	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	MI	J H Campbell	Pond C	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	MI	J H Campbell	Pond D (North, Mid, Mid south, and South)	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	MI	J H Campbell	Pond F	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	MI	J H Campbell	Pond G (G1 and G2)	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	MI	J H Campbell	Pond H	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	MI	J H Campbell	Pond K	https://www.consumersenergy.com/community/sustainability/environment/waste-management/coal-combustion-residuals	Yes
5	OH	J M Stuart	Former Pond 8	https://ccrstuart.com/	Yes
8	MT	J. E. Corette	Landfill 1	(not regulated)	No
4	TN	John Sevier Coal Fired Fossil Plant	Ash Disposal Area J	https://www.tva.com/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	Yes
4	TN	John Sevier Coal Fired Fossil Plant	Dry Fly Ash Stack	https://www.tva.com/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	Yes
4	TN	Johnsonville	Ash Sluice Pond	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Johnsonville	DuPont Dredge Cell	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Johnsonville	Retired Ash Pond / Ash Disposal Area 1	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
4	TN	Johnsonville	South Rail Loop	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	No
5	IL	Joliet 29	Landfill	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Joliet 29	Ash Pond 1	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Joliet 29	Ash Pond 3	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Joppa	West Pond 1	https://www.luminant.com/ccr/#joppa	Yes
4	TN	Kingston	Sluice Trench	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	Yes
5	OH	Kyger Creek	North Fly Ash Pond	http://www.ovec.com/CCRKyger.php	Yes
7	IA	Lansing	Original CCR surface impoundment	http://ccr.alliantenergy.com/Lansing/index.htm	Yes
8	ND	Leland Olds	Landfill 1	https://www.basinelectric.com/environment/coal-combustion-residuals-ccr-rule-compliance-data-and-information/	No
8	MT	Lewis & Clark	Landfill 1	https://www.montana-dakota.com/energy-efficiency/ccr-rule/lewis-clark-station/	No
8	MT	Lewis & Clark	Landfill 2	https://www.montana-dakota.com/energy-efficiency/ccr-rule/lewis-clark-station/	No
6	TX	Limestone	Unit BACP	http://www.nrg.com/legal/coal-combustion-residuals/	Yes
5	IL	Lincoln Generating Facility	West Filled Area	http://www.nrg.com/legal/coal-combustion-residuals/	Yes
7	MO	Meramec	Surface Impoundment MOPF	https://www.ameren.com/Environment/ccr-rule-compliance	Yes
7	MO	Meramec	Surface Impoundment MOPG	https://www.ameren.com/Environment/ccr-rule-compliance	Yes

7	MO	Meramec	Surface Impoundment MOPH	https://www.ameren.com/Environment/ccr-rule-compliance	Yes
7	MO	Meramec	Surface Impoundment MOPI	https://www.ameren.com/Environment/ccr-rule-compliance	Yes
5	OH	Miami Fort	FGD Runoff Pond	https://www.luminant.com/ccr/#miami-fort	No
5	OH	Miami Fort	Landfill Sedimentation Pond	https://www.luminant.com/ccr/#miami-fort	No
5	OH	Miami Fort	Miamiview Road Ash Landfill	https://www.luminant.com/ccr/#miami-fort	No
5	IN	Michigan City	Historical fill under ash ponds	https://www.nipsco.com/about-us/ccr-rule-compliance-data-information	Yes
5	IN	Michigan City	Coal Ash Storage	https://www.nipsco.com/our-company/about-us/our-environment/ccr-rule-compliance	No
8	ND	Milton R Young	Cell 1	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	Yes
8	ND	Milton R Young	Landfill 1	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
8	ND	Milton R Young	Landfill 2	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
8	ND	Milton R Young	Landfill 3	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
8	ND	Milton R Young	Landfill 4	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
8	ND	Milton R Young	Landfill 5	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
8	ND	Milton R Young	Landfill 6	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
8	ND	Milton R Young	Landfill 7	https://www.minnkota.com/minnkota-website/our-power/ccr-rule-compliance	No
6	TX	Monticello	A Ash Area	https://ccrmonitcello.com/	Yes
6	TX	Monticello	Inactive Scrubber Pond	https://ccrmonitcello.com/	Yes
6	TX	Monticello	Scrubber Sludge Decant Area	https://ccrmonitcello.com/	Yes
8	WY	Naughton	Landfill 1	https://www.brkenenergy.com/ccr/ppw.html	No
5	WI	Nelson Dewey	Fly Ash Landfill (Former Ash Setting Pond)	http://ccr.alliantenergy.com/	Yes
3	PA	New Castle Plant	Plant Landfill - older portions	https://www.genon.com/ccr-rule-compliance	Yes
3	PA	New Castle Plant	South Ash Pond	https://www.genon.com/ccr-rule-compliance	Yes
5	IL	Newton	Secondary Ash Pond	https://www.luminant.com/ccr/#newton	Yes
5	IL	Newton	Landfill 1	https://www.luminant.com/ccr/#newton	Yes
5	IN	Noblesville	Ash Disposal Site	(not regulated)	Yes
7	NE	North Omaha	Structural Fill	http://www.oppd.com/environment/environmental-reports/ccr-rule-compliance/ccr-rule-compliance-north-omaha-power-station/	Yes
8	WY	Osage	Landfill 1	(not regulated)	No
8	WY	Osage	Landfill 2	(not regulated)	No
4	KY	Paradise	Jacob's Creek Ash Pond	https://www.tva.gov/Environment/Environmental-Stewardship/Coal-Combustion-Residuals	Yes
7	NE	Platte	Phase 1 Landfill	https://www.giud.com/about-us/electric-generation/platte-generating-station/ccr-rule-compliance-data-and-information	Yes
5	IL	Powerton	Ash Fill	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Powerton	East Yard Runoff Basin	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Powerton	Limestone Runoff Basin	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Powerton	Metal Cleaning Basin	https://www.nrg.com/legal/coal-combustion-residuals.html	No
5	IL	Powerton	Secondary Ash Settling Basin	https://www.nrg.com/legal/coal-combustion-residuals.html	No
7	IA	Prairie Creek	Former Hydrated Fly Ash Storage Pile	https://ccr.alliantenergy.com/PrairieCreek?utm_source=WS&utm_campaign=PrairieCreek	Yes
5	MI	Presque Isle	PIP Landfill #2	http://www.we-energies.com/environmental/coal-combustion.htm	Yes
5	MI	Presque Isle	PIP Landfill #1	http://www.we-energies.com/environmental/coal-combustion.htm	Yes
5	IN	R M Schahfer	Landfill Phases 1 and 2	https://www.nipsco.com/about-us/ccr-rule-compliance-data-information	Yes
5	IN	R M Schahfer	Berm around Phased landfill	https://www.nipsco.com/about-us/ccr-rule-compliance-data-information	Yes
3	WV	R Paul Smith	Landfill	(not regulated)	No
8	ND	RM Heskett	Landfill 1	https://www.montana-dakota.com/energy-efficiency/ccr-rule/r-m-heskett-station/	No
3	PA	Shawville	Ash Landfill	(not regulated)	Yes
5	MN	Sherburne County	Pond #1	https://www.xcelenergy.com/coal_ash_management	Yes
5	MN	Sherburne County	Pond #2	https://www.xcelenergy.com/coal_ash_management	Yes
5	MN	Sherburne County	Bottom Ash pond #2	https://www.xcelenergy.com/coal_ash_management	Yes
8	ND	Stanton	Landfill 1	https://oucccr.com/	No
8	ND	Stanton	Landfill 2	https://oucccr.com/	No
4	FL	Stanton Energy Center	Landfill	https://oucccr.com/	No
5	IN	Tanners Creek	Landfill	(not regulated)	No
5	IN	Tanners Creek	Area 1	(not regulated)	No
5	IN	Tanners Creek	Area 2	(not regulated)	No
5	IN	Tanners Creek	Old Ash Area	(not regulated)	No
7	KS	Tecumseh Energy Center	Final Ash Pond	https://www.evergy.com/ccr	No
4	SC	Urquhart	Urquhart-3 (LF)	(not regulated)	No
8	CO	Valmont	Closed Valmont Station ADF	https://www.xcelenergy.com/coal_ash_management	No
4	SC	Wateree	Ash Pond 2	https://www.dominionenergy.com/projects-and-facilities/electric-projects/coal-ash/ccr-rule-compliance-data-and-information	Yes
5	IL	Waukegan	Old Pond	https://www.nrg.com/legal/coal-combustion-residuals.html	Yes
5	IL	Waukegan	Historic Fill	https://www.nrg.com/legal/coal-combustion-residuals.html	Yes
6	AR	White Bluff	CADL Historical Section	http://www.entergy-arkansas.com/ccr/WB/	Yes
5	IL	Will County	Pond 1 North	https://www.nrg.com/legal/coal-combustion-residuals.html	Yes
5	IL	Will County	Pond 1 South	https://www.nrg.com/legal/coal-combustion-residuals.html	Yes
4	SC	Williams	Williams Highway 17A Class II Landfill	https://www.dominionenergy.com/projects-and-facilities/electric-projects/coal-ash/ccr-rule-compliance-data-and-information	Yes
5	IL	Wood River	Secondary East Polishing Pond	https://ccrwoodriver.com/	Yes
8	WY	Wyodak	Landfill 1	(not regulated)	No
6	TX	Calaveras - J T Deely	J T Deely-1	https://www.cpsenergy.com/en/about-us/environment/coal-combustion-residuals.html	No
6	TX	Calaveras - J T Deely	J T Deely-2	https://www.cpsenergy.com/en/about-us/environment/coal-combustion-residuals.html	No
6	TX	Calaveras - J T Deely	J T Deely-3	https://www.cpsenergy.com/en/about-us/environment/coal-combustion-residuals.html	No
6	TX	Calaveras - J T Deely	J T Deely-4	https://www.cpsenergy.com/en/about-us/environment/coal-combustion-residuals.html	No

6	TX	Calaveras - J T Deely	J T Deely-5	https://www.cpsenergy.com/en/about-us/environment/coal-combustion-residuals.html	No
6	TX	Calaveras - J T Deely	J T Deely-6	https://www.cpsenergy.com/en/about-us/environment/coal-combustion-residuals.html	No