

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:	)	
	)	
PETITION OF SOUTHERN ILLINOIS	)	AS 2021-006
POWER COOPERATIVE FOR AN	)	Adjusted Standard - Land
ADJUSTED STANDARD FROM	)	
35 ILL. ADM. CODE 845 OR IN THE	)	
ALTERNATIVE A FINDING OF	)	
INAPPLICABILITY	)	

**NOTICE OF FILING OF CORRESPONDENCE REGARDING USEPA'S POSITION ON  
ADJUSTED STANDARDS IN PART 845 PRIMACY APPLICATION**

TO: See Attached Service List

PLEASE TAKE NOTICE that on September 11, 2025, I electronically filed with the Clerk of the Illinois Pollution Control Board the attached **Filing of Correspondence Regarding USEPA's Position on Adjusted Standards in Part 845 Primacy Application**. The filing includes the attached September 3, 2025 USEPA letter, for inclusion in the record of this proceeding.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: s/Rebecca Strauss  
Rebecca Strauss  
Assistant Counsel  
Division of Legal Counsel

DATED: September 11, 2025

2520 W. Iles Ave.  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544  
Rebecca.Strauss@illinois.gov

**PROOF OF SERVICE**

I, the undersigned, certify that on September 11, 2025, I caused to be served true and correct copies of **Filing of Correspondence Regarding USEPA's Position on Adjusted Standards in Part 845 Primacy Application** and the attached September 3, 2025 USEPA letter by e-mail to the following:

**ARENTFOX SCHIFF LLP\***

Joshua R. Moore – [Joshua.More@afslaw.com](mailto:Joshua.More@afslaw.com)

Amy Antonioli – [Amy.Antonioli@afslaw.com](mailto:Amy.Antonioli@afslaw.com)

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**ILLINOIS POLLUTION CONTROL BOARD**

Don Brown, Clerk – [don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Carol Webb, Hearing Officer – [carol.webb@illinois.gov](mailto:carol.webb@illinois.gov)

DATED: September 11, 2025

By: s/Rebecca Strauss  
Rebecca Strauss  
Assistant Counsel  
Division of Legal Counsel

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**FILING OF CORRESPONDENCE REGARDING USEPA'S  
POSITION ON ADJUSTED STANDARDS IN PART 845 PRIMACY  
APPLICATION**

The Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through its attorneys, submits the attached September 3, 2025 correspondence from the United States Environmental Protection Agency ("USEPA") for inclusion in the record of this proceeding, pursuant to 35 Ill. Adm. Code 101.302.

1. Illinois EPA has been working with USEPA since 2021 to develop a primacy package for Part 845. In April 2025, USEPA advised Illinois EPA that it could not readily approve adjusted standards granted by the Pollution Control Board as being consistent with federal requirements, and that excluding them from Illinois EPA's primacy package was the only viable path to timely approval.

2. Illinois EPA requested a formal statement from USEPA on the issue. See attached USEPA letter dated September 3, 2025.

3. On July 22, 2025, Illinois EPA submitted its primacy package for Part 845, which is currently under review by USEPA and does not seek primacy for facilities with an adjusted standard issued by the Board.

Respectfully submitted,

Dated: September 11, 2025

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P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544  
[Rebecca.Strauss@Illinois.gov](mailto:Rebecca.Strauss@Illinois.gov)

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

BY: /s/Rebecca Strauss  
Rebecca Strauss  
Assistant Counsel  
Division of Legal Counsel

**THIS FILING IS SUBMITTED ELECTRONICALLY**

## **Attachment**

September 3, 2025

James Jennings  
Acting Director  
Illinois Environmental Protection Agency  
2520 W Iles Ave  
P.O. Box 19276  
Springfield, Illinois 62794

Dear James,

During preapplication discussions between the US Environmental Protection Agency (EPA) and the Illinois Environmental Protection Agency (“Illinois EPA” or the “State”) regarding the State of Illinois’ submission of a state permitting program application for the regulation of coal combustion residuals (“CCR”) pursuant to Section 4005(d) of the Resource Conservation and Recovery Act (“RCRA”), the EPA was asked to evaluate the impact of the Illinois Pollution Control Board’s capacity to issue site-specific adjusted standards on the State’s permitting program.

The statutory language in RCRA requires the EPA to determine whether each CCR unit located in the State achieves compliance with either the Federal requirements in 40 C.F.R. Part 257 or other State requirements that the EPA determines are at least as protective as those in the Federal CCR regulations. 42 U.S.C. § 6945(d)(1)(B), (d)(1)(B)(ii) and (d)(1)(C) and the definition of “Administrator” at 42 U.S.C. § 6903. The EPA cannot delegate those determinations to the State. When the EPA approves a State CCR program it will need to be able to find, and defend, that any approved alternative State requirements are “at least as protective as” the Federal CCR regulations. See Coal Combustion Residuals State Permit Program Guidance Document; Interim Final, p. 2-10 (82 FR 38685, August 15, 2017).

It is unclear whether there would be sufficient factual evidence—at the time the EPA reviews the State’s program application—to support a finding that the application of the Illinois adjusted standard provisions would result in each CCR unit achieving compliance with requirements that are at least as protective as the Federal regulations. Reviewing these provisions and the associated variance history would take additional time.

To simplify the application process, Illinois EPA decided that it will not seek approval of the State adjusted standards provisions in its CCR permit program application.

The EPA is committed to working with Illinois EPA to achieve protective standards in the state permitting program application. Thank you for your inquiry and the EPA looks forward to continuing coordination with the State on your CCR permit program.

If you have any questions, please contact Andy Crossland of my staff at [crossland.andy@epa.gov](mailto:crossland.andy@epa.gov) or 202-853-4459.

Sincerely,

Carolyn Hoskinson  
Director