

ILLINOIS POLLUTION CONTROL BOARD

October 2, 2025

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

Adopted Rule. Final Notice.

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

On August 7, 2025, the Board issued second notice of proposed amendments to 35 Ill. Adm. Code 845.220. During the first notice period, the Board did not receive any public comments on its proposed amendments. At its September 16, 2025, meeting, the Joint Committee on Administrative Rules (JCAR) issued a Certificate of No Objection for the Part 845.220 amendments. Today, the Board adopts amendments intended to update Part 845.

During consideration of sub-docket (A), the Illinois Environmental Protection Agency (IEOA) suggested changes related to construction permits in 35 Ill. Adm. Code 845.220. Because the Board's first-notice proposal in sub-docket (A) did not include that section, the Board opened this sub-docket (B) to consider those changes. IEPA first suggested amending Section 845.220(a)(4)(C) to refer to an existing section on monitoring wells for CCR storage units. IEPA also suggested that Section 845.220(d)(6) include design and construction requirements for CCR storage units.

TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

On April 16, 2020, the Board requested that the Department of Commerce and Economic Opportunity (DCEO) perform an economic impact study of the Board's proposal for the underlying rulemaking, R20-19. *See* 415 ILCS 5/27(b) (2024). The Board requested a response from DCEO by June 1, 2020, but did not receive a response from the agency. No participant in this sub-docket commented on the Board's request or DCEO's response.

When it adopted Part 845, the Board considered the record and determined that the rule was technically feasible and economically reasonable. The Coal Ash Pollution Prevention Act (Public Act 101-171, eff. July 30, 2019) added Section 22.59 to the Environmental Protection Act, 415 ILCS 5/22.59 (2024). Section 22.59 directed the Board to adopt rules that, "must, at a minimum: (1) be at least as protective and comprehensive as the federal regulations..." *Id.* In the final adoption order for R20-19, the Board held that that, "[a]s proposed, many of the technical elements required of owners and operators of CCR surface impoundments are already required under federal law... In addition, certain technical aspects of these rules that differ from the federal rules are based on existing regulations for landfills and site-specific rulemaking for CCR surface impoundments." Standards for the Disposal of Coal Combustion Residuals In

Surface Impoundments: Proposed New 35 Ill. Adm. Code 845, R20-19, slip op. at 8 (April 15, 2021).

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

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

CONCLUSION

The Board adopts amendments to Part 845 of its coal combustion residual surface impoundment rules. The adopted rules appear in the addendum to this opinion with additions appearing underlined and deletions appearing struck through.

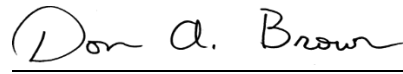
ORDER

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

IT IS SO ORDERED.

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

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 2, 2025, by a vote of 5-0.

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

Don A. Brown, Clerk
Illinois Pollution Control Board