

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

NOTICE

TO: Persons identified on Board's CCR service list on its website:
<https://pcb.illinois.gov/Cases/GetCaseDetailsById?caseId=16975>

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the ILLINOIS EPA'S RESPONSE TO ITEM NO. 3 OF THE BOARD'S MAY 15, 2025, ORDER, a copy of which is herewith served upon you along with this notice.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Trevor D. Dell'Aquila
Trevor D. Dell'Aquila
Assistant Counsel
Division of Legal Counsel

DATED: November 17, 2025

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ILLINOIS EPA’S RESPONSE TO ITEM NO. 3 OF THE BOARD’S MAY 15, 2025, ORDER

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by and through one of its attorneys and, pursuant to Item No. 3 of the Illinois Pollution Control Board’s (“Board”) Order of May 15, 2025 (“Order”), submits the following update on the status of 35 Ill. Adm. Code Part 845’s (“Part 845”) approval process with the United States Environmental Protection Agency (“U.S. EPA”).

Part 845 Approval Status Update as of November 17, 2025

On July 22, 2025, the Illinois EPA submitted its application (“Application”) for partial approval of Illinois’s Coal Combustion Residuals (“CCR”) Permit Program pursuant to Section 4005(d) of the Resource Conservation and Recovery Act (“RCRA”). The Water Infrastructure Improvements for the Nation Act’s Title II, Subtitle C, Section 2301, grants U.S. EPA the authority to approve state programs for managing CCR that are submitted for U.S. EPA approval.

Illinois EPA advised U.S. EPA that the Board adopted Part 845 on April 15, 2021, which also became effective on the same date. To compare Part 845 rule language and references to the federal CCR regulations at 40 C.F.R. Part 257 (“Part 257”), the Application referred to the Part 257 rule and amendments published in the Federal Register on April 17, 2015; July 2, 2015; August 5, 2016; and July 30, 2018.

In preparing the Application, Illinois EPA used U.S. EPA’s Part 257 checklist to compare the regulatory requirements of Part 845 and Part 257 and demonstrate that Illinois’s CCR permit program is at least as protective as the applicable criteria for CCR units under Part 257.

The Application noted that Part 845 includes 1) requirements to obtain initial operating permits, construction permits, and closure permits for CCR surface impoundments (“CCRSIs”); and 2) groundwater monitoring requirements and corrective action/remediation requirements for contaminated groundwater associated with CCRSIs but specified that Part 845 does not apply to landfills that receive CCR. As such, Illinois EPA clarified that it was not seeking U.S. EPA approval of state regulations that allow permitted landfills to receive CCR.

Notably, the Board's authority to grant regulatory relief pursuant to Section 5(d) of the Environmental Protection Act, 415 ILCS 5/5(d), and the Board's regulations 35 Ill. Adm. Code Part 104 ("Part 104"), apply to Part 845 CCRSI facilities. The statutory language in RCRA, however, requires the U.S. EPA to determine whether each CCR unit located in the State of Illinois achieves compliance with either the federal requirements in Part 257 or other state requirements that the U.S. EPA determines are at least as protective as those in the federal CCR regulations. *See* 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.. When the U.S. 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). U.S. EPA has indicated that it is unclear whether there would be sufficient factual evidence—at the time the U.S. EPA reviews Illinois EPA's program application—to support a finding that the application of the Board's adjusted standard regulations would result in each CCRSI 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. Therefore, to avoid complicating U.S. EPA's review and facilitate a clear protectiveness determination, Illinois EPA elected to not include the Part 104 regulations as part of its CCR permit program application.

On November 7, 2025, U.S. EPA informed Illinois EPA that its July 22, 2025, Application narrative would need to be updated to further elaborate on program authorities, provide any administrative rule updates to Part 845; and include information on any CCRSI permits that have been issued since the adoption of Part 845. The Illinois EPA is currently in the process of drafting the requested updates to the Application narrative.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Trevor D. Dell'Aquila
Trevor D. Dell'Aquila
Assistant Counsel
Division of Legal Counsel

DATED: November 17, 2025

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

I have electronically served the attached ILLINOIS EPA'S RESPONSE TO ITEM NO. 3 OF THE BOARD'S MAY 15, 2025, ORDER upon the following:

All individuals with email addresses named on the Service List provided on the Board's website, available at <https://pcb.illinois.gov/Cases/GetCaseDetailsById?caseId=16975>.

I affirm that my e-mail address is trevor.dellaquila@illinois.gov; the number of pages in the e-mail transmission is 4; and the e-mail transmission took place before 5:00 p.m. on November 17, 2025.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Trevor D. Dell'Aquila
Trevor D. Dell'Aquila
Assistant Counsel
Division of Legal Counsel

DATED: November 17, 2025

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