

1 AN ACT concerning coal ash.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 3.140, 21, 39, and 40 and by adding Sections  
6 3.142, 3.143, and 22.59 as follows:

7 (415 ILCS 5/3.140) (was 415 ILCS 5/3.76)

8 Sec. 3.140. Coal combustion waste. "Coal combustion waste"  
9 means any CCR or any fly ash, bottom ash, slag, or flue gas or  
10 fluid bed boiler desulfurization by-products generated as a  
11 result of the combustion of:

12 (1) coal, or

13 (2) coal in combination with: (i) fuel grade petroleum  
14 coke, (ii) other fossil fuel, or (iii) both fuel grade  
15 petroleum coke and other fossil fuel, or

16 (3) coal (with or without: (i) fuel grade petroleum coke,  
17 (ii) other fossil fuel, or (iii) both fuel grade petroleum coke  
18 and other fossil fuel) in combination with no more than 20% of  
19 tire derived fuel or wood or other materials by weight of the  
20 materials combusted; provided that the coal is burned with  
21 other materials, the Agency has made a written determination  
22 that the storage or disposal of the resultant wastes in  
23 accordance with the provisions of item (r) of Section 21 would

1 result in no environmental impact greater than that of wastes  
2 generated as a result of the combustion of coal alone, and the  
3 storage disposal of the resultant wastes would not violate  
4 applicable federal law.

5 (Source: P.A. 92-574, eff. 6-26-02.)

6 (415 ILCS 5/3.142 new)

7 Sec. 3.142. Coal combustion residual; CCR. "Coal  
8 combustion residual" or "CCR" means fly ash, bottom ash, boiler  
9 slag, and flue gas desulfurization materials generated from  
10 burning coal for the purpose of generating electricity by  
11 electric utilities and independent power producers.

12 (415 ILCS 5/3.143 new)

13 Sec. 3.143. CCR surface impoundment. "CCR surface  
14 impoundment" means a natural topographic depression, man-made  
15 excavation, or diked area, which is designed to hold an  
16 accumulation of CCR and liquids, and the unit treats, stores,  
17 or disposes of CCR.

18 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

19 Sec. 21. Prohibited acts. No person shall:

20 (a) Cause or allow the open dumping of any waste.

21 (b) Abandon, dump, or deposit any waste upon the public  
22 highways or other public property, except in a sanitary  
23 landfill approved by the Agency pursuant to regulations adopted

1 by the Board.

2 (c) Abandon any vehicle in violation of the "Abandoned  
3 Vehicles Amendment to the Illinois Vehicle Code", as enacted by  
4 the 76th General Assembly.

5 (d) Conduct any waste-storage, waste-treatment, or  
6 waste-disposal operation:

7 (1) without a permit granted by the Agency or in  
8 violation of any conditions imposed by such permit,  
9 including periodic reports and full access to adequate  
10 records and the inspection of facilities, as may be  
11 necessary to assure compliance with this Act and with  
12 regulations and standards adopted thereunder; provided,  
13 however, that, except for municipal solid waste landfill  
14 units that receive waste on or after October 9, 1993, and  
15 CCR surface impoundments, no permit shall be required for

16 (i) any person conducting a waste-storage,  
17 waste-treatment, or waste-disposal operation for wastes  
18 generated by such person's own activities which are stored,  
19 treated, or disposed within the site where such wastes are  
20 generated, or (ii) a facility located in a county with a  
21 population over 700,000 as of January 1, 2000, operated and  
22 located in accordance with Section 22.38 of this Act, and  
23 used exclusively for the transfer, storage, or treatment of  
24 general construction or demolition debris, provided that  
25 the facility was receiving construction or demolition  
26 debris on the effective date of this amendatory Act of the

1 96th General Assembly;

2 (2) in violation of any regulations or standards  
3 adopted by the Board under this Act; or

4 (3) which receives waste after August 31, 1988, does  
5 not have a permit issued by the Agency, and is (i) a  
6 landfill used exclusively for the disposal of waste  
7 generated at the site, (ii) a surface impoundment receiving  
8 special waste not listed in an NPDES permit, (iii) a waste  
9 pile in which the total volume of waste is greater than 100  
10 cubic yards or the waste is stored for over one year, or  
11 (iv) a land treatment facility receiving special waste  
12 generated at the site; without giving notice of the  
13 operation to the Agency by January 1, 1989, or 30 days  
14 after the date on which the operation commences, whichever  
15 is later, and every 3 years thereafter. The form for such  
16 notification shall be specified by the Agency, and shall be  
17 limited to information regarding: the name and address of  
18 the location of the operation; the type of operation; the  
19 types and amounts of waste stored, treated or disposed of  
20 on an annual basis; the remaining capacity of the  
21 operation; and the remaining expected life of the  
22 operation.

23 Item (3) of this subsection (d) shall not apply to any  
24 person engaged in agricultural activity who is disposing of a  
25 substance that constitutes solid waste, if the substance was  
26 acquired for use by that person on his own property, and the

1 substance is disposed of on his own property in accordance with  
2 regulations or standards adopted by the Board.

3 This subsection (d) shall not apply to hazardous waste.

4 (e) Dispose, treat, store or abandon any waste, or  
5 transport any waste into this State for disposal, treatment,  
6 storage or abandonment, except at a site or facility which  
7 meets the requirements of this Act and of regulations and  
8 standards thereunder.

9 (f) Conduct any hazardous waste-storage, hazardous  
10 waste-treatment or hazardous waste-disposal operation:

11 (1) without a RCRA permit for the site issued by the  
12 Agency under subsection (d) of Section 39 of this Act, or  
13 in violation of any condition imposed by such permit,  
14 including periodic reports and full access to adequate  
15 records and the inspection of facilities, as may be  
16 necessary to assure compliance with this Act and with  
17 regulations and standards adopted thereunder; or

18 (2) in violation of any regulations or standards  
19 adopted by the Board under this Act; or

20 (3) in violation of any RCRA permit filing requirement  
21 established under standards adopted by the Board under this  
22 Act; or

23 (4) in violation of any order adopted by the Board  
24 under this Act.

25 Notwithstanding the above, no RCRA permit shall be required  
26 under this subsection or subsection (d) of Section 39 of this

1 Act for any person engaged in agricultural activity who is  
2 disposing of a substance which has been identified as a  
3 hazardous waste, and which has been designated by Board  
4 regulations as being subject to this exception, if the  
5 substance was acquired for use by that person on his own  
6 property and the substance is disposed of on his own property  
7 in accordance with regulations or standards adopted by the  
8 Board.

9 (g) Conduct any hazardous waste-transportation operation:

10 (1) without registering with and obtaining a special  
11 waste hauling permit from the Agency in accordance with the  
12 regulations adopted by the Board under this Act; or

13 (2) in violation of any regulations or standards  
14 adopted by the Board under this Act.

15 (h) Conduct any hazardous waste-recycling or hazardous  
16 waste-reclamation or hazardous waste-reuse operation in  
17 violation of any regulations, standards or permit requirements  
18 adopted by the Board under this Act.

19 (i) Conduct any process or engage in any act which produces  
20 hazardous waste in violation of any regulations or standards  
21 adopted by the Board under subsections (a) and (c) of Section  
22 22.4 of this Act.

23 (j) Conduct any special waste transportation operation in  
24 violation of any regulations, standards or permit requirements  
25 adopted by the Board under this Act. However, sludge from a  
26 water or sewage treatment plant owned and operated by a unit of

1 local government which (1) is subject to a sludge management  
2 plan approved by the Agency or a permit granted by the Agency,  
3 and (2) has been tested and determined not to be a hazardous  
4 waste as required by applicable State and federal laws and  
5 regulations, may be transported in this State without a special  
6 waste hauling permit, and the preparation and carrying of a  
7 manifest shall not be required for such sludge under the rules  
8 of the Pollution Control Board. The unit of local government  
9 which operates the treatment plant producing such sludge shall  
10 file an annual report with the Agency identifying the volume of  
11 such sludge transported during the reporting period, the hauler  
12 of the sludge, and the disposal sites to which it was  
13 transported. This subsection (j) shall not apply to hazardous  
14 waste.

15 (k) Fail or refuse to pay any fee imposed under this Act.

16 (l) Locate a hazardous waste disposal site above an active  
17 or inactive shaft or tunneled mine or within 2 miles of an  
18 active fault in the earth's crust. In counties of population  
19 less than 225,000 no hazardous waste disposal site shall be  
20 located (1) within 1 1/2 miles of the corporate limits as  
21 defined on June 30, 1978, of any municipality without the  
22 approval of the governing body of the municipality in an  
23 official action; or (2) within 1000 feet of an existing private  
24 well or the existing source of a public water supply measured  
25 from the boundary of the actual active permitted site and  
26 excluding existing private wells on the property of the permit

1 applicant. The provisions of this subsection do not apply to  
2 publicly-owned sewage works or the disposal or utilization of  
3 sludge from publicly-owned sewage works.

4 (m) Transfer interest in any land which has been used as a  
5 hazardous waste disposal site without written notification to  
6 the Agency of the transfer and to the transferee of the  
7 conditions imposed by the Agency upon its use under subsection  
8 (g) of Section 39.

9 (n) Use any land which has been used as a hazardous waste  
10 disposal site except in compliance with conditions imposed by  
11 the Agency under subsection (g) of Section 39.

12 (o) Conduct a sanitary landfill operation which is required  
13 to have a permit under subsection (d) of this Section, in a  
14 manner which results in any of the following conditions:

15 (1) refuse in standing or flowing waters;

16 (2) leachate flows entering waters of the State;

17 (3) leachate flows exiting the landfill confines (as  
18 determined by the boundaries established for the landfill  
19 by a permit issued by the Agency);

20 (4) open burning of refuse in violation of Section 9 of  
21 this Act;

22 (5) uncovered refuse remaining from any previous  
23 operating day or at the conclusion of any operating day,  
24 unless authorized by permit;

25 (6) failure to provide final cover within time limits  
26 established by Board regulations;



- 1 (7) acceptance of wastes without necessary permits;
- 2 (8) scavenging as defined by Board regulations;
- 3 (9) deposition of refuse in any unpermitted portion of
- 4 the landfill;
- 5 (10) acceptance of a special waste without a required
- 6 manifest;
- 7 (11) failure to submit reports required by permits or
- 8 Board regulations;
- 9 (12) failure to collect and contain litter from the
- 10 site by the end of each operating day;
- 11 (13) failure to submit any cost estimate for the site
- 12 or any performance bond or other security for the site as
- 13 required by this Act or Board rules.

14 The prohibitions specified in this subsection (o) shall be  
15 enforceable by the Agency either by administrative citation  
16 under Section 31.1 of this Act or as otherwise provided by this  
17 Act. The specific prohibitions in this subsection do not limit  
18 the power of the Board to establish regulations or standards  
19 applicable to sanitary landfills.

20 (p) In violation of subdivision (a) of this Section, cause  
21 or allow the open dumping of any waste in a manner which  
22 results in any of the following occurrences at the dump site:

- 23 (1) litter;
- 24 (2) scavenging;
- 25 (3) open burning;
- 26 (4) deposition of waste in standing or flowing waters;

- 1           (5) proliferation of disease vectors;
- 2           (6) standing or flowing liquid discharge from the dump  
3 site;
- 4           (7) deposition of:
- 5                 (i) general construction or demolition debris as  
6 defined in Section 3.160(a) of this Act; or
- 7                 (ii) clean construction or demolition debris as  
8 defined in Section 3.160(b) of this Act.

9           The prohibitions specified in this subsection (p) shall be  
10 enforceable by the Agency either by administrative citation  
11 under Section 31.1 of this Act or as otherwise provided by this  
12 Act. The specific prohibitions in this subsection do not limit  
13 the power of the Board to establish regulations or standards  
14 applicable to open dumping.

15           (q) Conduct a landscape waste composting operation without  
16 an Agency permit, provided, however, that no permit shall be  
17 required for any person:

18                 (1) conducting a landscape waste composting operation  
19 for landscape wastes generated by such person's own  
20 activities which are stored, treated, or disposed of within  
21 the site where such wastes are generated; or

22                 (1.5) conducting a landscape waste composting  
23 operation that (i) has no more than 25 cubic yards of  
24 landscape waste, composting additives, composting  
25 material, or end-product compost on-site at any one time  
26 and (ii) is not engaging in commercial activity; or

1           (2) applying landscape waste or composted landscape  
2 waste at agronomic rates; or

3           (2.5) operating a landscape waste composting facility  
4 at a site having 10 or more occupied non-farm residences  
5 within 1/2 mile of its boundaries, if the facility meets  
6 all of the following criteria:

7           (A) the composting facility is operated by the  
8 farmer on property on which the composting material is  
9 utilized, and the composting facility constitutes no  
10 more than 2% of the site's total acreage;

11           (A-5) any composting additives that the composting  
12 facility accepts and uses at the facility are necessary  
13 to provide proper conditions for composting and do not  
14 exceed 10% of the total composting material at the  
15 facility at any one time;

16           (B) the property on which the composting facility  
17 is located, and any associated property on which the  
18 compost is used, is principally and diligently devoted  
19 to the production of agricultural crops and is not  
20 owned, leased, or otherwise controlled by any waste  
21 hauler or generator of nonagricultural compost  
22 materials, and the operator of the composting facility  
23 is not an employee, partner, shareholder, or in any way  
24 connected with or controlled by any such waste hauler  
25 or generator;

26           (C) all compost generated by the composting

1 facility is applied at agronomic rates and used as  
2 mulch, fertilizer, or soil conditioner on land  
3 actually farmed by the person operating the composting  
4 facility, and the finished compost is not stored at the  
5 composting site for a period longer than 18 months  
6 prior to its application as mulch, fertilizer, or soil  
7 conditioner;

8 (D) no fee is charged for the acceptance of  
9 materials to be composted at the facility; and

10 (E) the owner or operator, by January 1, 2014 (or  
11 the January 1 following commencement of operation,  
12 whichever is later) and January 1 of each year  
13 thereafter, registers the site with the Agency, (ii)  
14 reports to the Agency on the volume of composting  
15 material received and used at the site; (iii) certifies  
16 to the Agency that the site complies with the  
17 requirements set forth in subparagraphs (A), (A-5),  
18 (B), (C), and (D) of this paragraph (2.5); and (iv)  
19 certifies to the Agency that all composting material  
20 was placed more than 200 feet from the nearest potable  
21 water supply well, was placed outside the boundary of  
22 the 10-year floodplain or on a part of the site that is  
23 floodproofed, was placed at least 1/4 mile from the  
24 nearest residence (other than a residence located on  
25 the same property as the facility) or a lesser distance  
26 from the nearest residence (other than a residence

1 located on the same property as the facility) if the  
2 municipality in which the facility is located has by  
3 ordinance approved a lesser distance than 1/4 mile, and  
4 was placed more than 5 feet above the water table; any  
5 ordinance approving a residential setback of less than  
6 1/4 mile that is used to meet the requirements of this  
7 subparagraph (E) of paragraph (2.5) of this subsection  
8 must specifically reference this paragraph; or

9 (3) operating a landscape waste composting facility on  
10 a farm, if the facility meets all of the following  
11 criteria:

12 (A) the composting facility is operated by the  
13 farmer on property on which the composting material is  
14 utilized, and the composting facility constitutes no  
15 more than 2% of the property's total acreage, except  
16 that the Board may allow a higher percentage for  
17 individual sites where the owner or operator has  
18 demonstrated to the Board that the site's soil  
19 characteristics or crop needs require a higher rate;

20 (A-1) the composting facility accepts from other  
21 agricultural operations for composting with landscape  
22 waste no materials other than uncontaminated and  
23 source-separated (i) crop residue and other  
24 agricultural plant residue generated from the  
25 production and harvesting of crops and other customary  
26 farm practices, including, but not limited to, stalks,

1 leaves, seed pods, husks, bagasse, and roots and (ii)  
2 plant-derived animal bedding, such as straw or  
3 sawdust, that is free of manure and was not made from  
4 painted or treated wood;

5 (A-2) any composting additives that the composting  
6 facility accepts and uses at the facility are necessary  
7 to provide proper conditions for composting and do not  
8 exceed 10% of the total composting material at the  
9 facility at any one time;

10 (B) the property on which the composting facility  
11 is located, and any associated property on which the  
12 compost is used, is principally and diligently devoted  
13 to the production of agricultural crops and is not  
14 owned, leased or otherwise controlled by any waste  
15 hauler or generator of nonagricultural compost  
16 materials, and the operator of the composting facility  
17 is not an employee, partner, shareholder, or in any way  
18 connected with or controlled by any such waste hauler  
19 or generator;

20 (C) all compost generated by the composting  
21 facility is applied at agronomic rates and used as  
22 mulch, fertilizer or soil conditioner on land actually  
23 farmed by the person operating the composting  
24 facility, and the finished compost is not stored at the  
25 composting site for a period longer than 18 months  
26 prior to its application as mulch, fertilizer, or soil

1 conditioner;

2 (D) the owner or operator, by January 1 of each  
3 year, (i) registers the site with the Agency, (ii)  
4 reports to the Agency on the volume of composting  
5 material received and used at the site, (iii) certifies  
6 to the Agency that the site complies with the  
7 requirements set forth in subparagraphs (A), (A-1),  
8 (A-2), (B), and (C) of this paragraph (q) (3), and (iv)  
9 certifies to the Agency that all composting material:

10 (I) was placed more than 200 feet from the  
11 nearest potable water supply well;

12 (II) was placed outside the boundary of the  
13 10-year floodplain or on a part of the site that is  
14 floodproofed;

15 (III) was placed either (aa) at least 1/4 mile  
16 from the nearest residence (other than a residence  
17 located on the same property as the facility) and  
18 there are not more than 10 occupied non-farm  
19 residences within 1/2 mile of the boundaries of the  
20 site on the date of application or (bb) a lesser  
21 distance from the nearest residence (other than a  
22 residence located on the same property as the  
23 facility) provided that the municipality or county  
24 in which the facility is located has by ordinance  
25 approved a lesser distance than 1/4 mile and there  
26 are not more than 10 occupied non-farm residences

1           within 1/2 mile of the boundaries of the site on  
2           the date of application; and

3                   (IV) was placed more than 5 feet above the  
4           water table.

5           Any ordinance approving a residential setback of  
6           less than 1/4 mile that is used to meet the  
7           requirements of this subparagraph (D) must  
8           specifically reference this subparagraph.

9           For the purposes of this subsection (q), "agronomic rates"  
10          means the application of not more than 20 tons per acre per  
11          year, except that the Board may allow a higher rate for  
12          individual sites where the owner or operator has demonstrated  
13          to the Board that the site's soil characteristics or crop needs  
14          require a higher rate.

15          (r) Cause or allow the storage or disposal of coal  
16          combustion waste unless:

17                  (1) such waste is stored or disposed of at a site or  
18                  facility for which a permit has been obtained or is not  
19                  otherwise required under subsection (d) of this Section; or

20                  (2) such waste is stored or disposed of as a part of  
21                  the design and reclamation of a site or facility which is  
22                  an abandoned mine site in accordance with the Abandoned  
23                  Mined Lands and Water Reclamation Act; or

24                  (3) such waste is stored or disposed of at a site or  
25                  facility which is operating under NPDES and Subtitle D  
26                  permits issued by the Agency pursuant to regulations



1           adopted by the Board for mine-related water pollution and  
2           permits issued pursuant to the Federal Surface Mining  
3           Control and Reclamation Act of 1977 (P.L. 95-87) or the  
4           rules and regulations thereunder or any law or rule or  
5           regulation adopted by the State of Illinois pursuant  
6           thereto, and the owner or operator of the facility agrees  
7           to accept the waste; and either

8                   (i) such waste is stored or disposed of in  
9                   accordance with requirements applicable to refuse  
10                  disposal under regulations adopted by the Board for  
11                  mine-related water pollution and pursuant to NPDES and  
12                  Subtitle D permits issued by the Agency under such  
13                  regulations; or

14                  (ii) the owner or operator of the facility  
15                  demonstrates all of the following to the Agency, and  
16                  the facility is operated in accordance with the  
17                  demonstration as approved by the Agency: (1) the  
18                  disposal area will be covered in a manner that will  
19                  support continuous vegetation, (2) the facility will  
20                  be adequately protected from wind and water erosion,  
21                  (3) the pH will be maintained so as to prevent  
22                  excessive leaching of metal ions, and (4) adequate  
23                  containment or other measures will be provided to  
24                  protect surface water and groundwater from  
25                  contamination at levels prohibited by this Act, the  
26                  Illinois Groundwater Protection Act, or regulations

1           adopted pursuant thereto.

2           Notwithstanding any other provision of this Title, the  
3 disposal of coal combustion waste pursuant to item (2) or (3)  
4 of this subdivision (r) shall be exempt from the other  
5 provisions of this Title V, and notwithstanding the provisions  
6 of Title X of this Act, the Agency is authorized to grant  
7 experimental permits which include provision for the disposal  
8 of wastes from the combustion of coal and other materials  
9 pursuant to items (2) and (3) of this subdivision (r).

10          (s) After April 1, 1989, offer for transportation,  
11 transport, deliver, receive or accept special waste for which a  
12 manifest is required, unless the manifest indicates that the  
13 fee required under Section 22.8 of this Act has been paid.

14          (t) Cause or allow a lateral expansion of a municipal solid  
15 waste landfill unit on or after October 9, 1993, without a  
16 permit modification, granted by the Agency, that authorizes the  
17 lateral expansion.

18          (u) Conduct any vegetable by-product treatment, storage,  
19 disposal or transportation operation in violation of any  
20 regulation, standards or permit requirements adopted by the  
21 Board under this Act. However, no permit shall be required  
22 under this Title V for the land application of vegetable  
23 by-products conducted pursuant to Agency permit issued under  
24 Title III of this Act to the generator of the vegetable  
25 by-products. In addition, vegetable by-products may be  
26 transported in this State without a special waste hauling

1 permit, and without the preparation and carrying of a manifest.

2 (v) (Blank).

3 (w) Conduct any generation, transportation, or recycling  
4 of construction or demolition debris, clean or general, or  
5 uncontaminated soil generated during construction, remodeling,  
6 repair, and demolition of utilities, structures, and roads that  
7 is not commingled with any waste, without the maintenance of  
8 documentation identifying the hauler, generator, place of  
9 origin of the debris or soil, the weight or volume of the  
10 debris or soil, and the location, owner, and operator of the  
11 facility where the debris or soil was transferred, disposed,  
12 recycled, or treated. This documentation must be maintained by  
13 the generator, transporter, or recycler for 3 years. This  
14 subsection (w) shall not apply to (1) a permitted pollution  
15 control facility that transfers or accepts construction or  
16 demolition debris, clean or general, or uncontaminated soil for  
17 final disposal, recycling, or treatment, (2) a public utility  
18 (as that term is defined in the Public Utilities Act) or a  
19 municipal utility, (3) the Illinois Department of  
20 Transportation, or (4) a municipality or a county highway  
21 department, with the exception of any municipality or county  
22 highway department located within a county having a population  
23 of over 3,000,000 inhabitants or located in a county that is  
24 contiguous to a county having a population of over 3,000,000  
25 inhabitants; but it shall apply to an entity that contracts  
26 with a public utility, a municipal utility, the Illinois

1 Department of Transportation, or a municipality or a county  
2 highway department. The terms "generation" and "recycling" as  
3 used in this subsection do not apply to clean construction or  
4 demolition debris when (i) used as fill material below grade  
5 outside of a setback zone if covered by sufficient  
6 uncontaminated soil to support vegetation within 30 days of the  
7 completion of filling or if covered by a road or structure,  
8 (ii) solely broken concrete without protruding metal bars is  
9 used for erosion control, or (iii) milled asphalt or crushed  
10 concrete is used as aggregate in construction of the shoulder  
11 of a roadway. The terms "generation" and "recycling", as used  
12 in this subsection, do not apply to uncontaminated soil that is  
13 not commingled with any waste when (i) used as fill material  
14 below grade or contoured to grade, or (ii) used at the site of  
15 generation.

16 (Source: P.A. 100-103, eff. 8-11-17.)

17 (415 ILCS 5/22.59 new)

18 Sec. 22.59. CCR surface impoundments.

19 (a) The General Assembly finds that:

20 (1) the State of Illinois has a long-standing policy to  
21 restore, protect, and enhance the environment, including  
22 the purity of the air, land, and waters, including  
23 groundwaters, of this State;

24 (2) a clean environment is essential to the growth and  
25 well-being of this State;

1           (3) CCR generated by the electric generating industry  
2           has caused groundwater contamination and other forms of  
3           pollution at active and inactive plants throughout this  
4           State;

5           (4) environmental laws should be supplemented to  
6           ensure consistent, responsible regulation of all existing  
7           CCR surface impoundments; and

8           (5) meaningful participation of State residents,  
9           especially vulnerable populations who may be affected by  
10           regulatory actions, is critical to ensure that  
11           environmental justice considerations are incorporated in  
12           the development of, decision-making related to, and  
13           implementation of environmental laws and rulemaking that  
14           protects and improves the well-being of communities in this  
15           State that bear disproportionate burdens imposed by  
16           environmental pollution.

17           Therefore, the purpose of this Section is to promote a  
18           healthful environment, including clean water, air, and land,  
19           meaningful public involvement, and the responsible disposal  
20           and storage of coal combustion residuals, so as to protect  
21           public health and to prevent pollution of the environment of  
22           this State.

23           The provisions of this Section shall be liberally construed  
24           to carry out the purposes of this Section.

25           (b) No person shall:

26           (1) cause or allow the discharge of any contaminants

1 from a CCR surface impoundment into the environment so as  
2 to cause, directly or indirectly, a violation of this  
3 Section or any regulations or standards adopted by the  
4 Board under this Section, either alone or in combination  
5 with contaminants from other sources;

6 (2) construct, install, modify, operate, or close any  
7 CCR surface impoundment without a permit granted by the  
8 Agency, or so as to violate any conditions imposed by such  
9 permit, any provision of this Section or any regulations or  
10 standards adopted by the Board under this Section; or

11 (3) cause or allow, directly or indirectly, the  
12 discharge, deposit, injection, dumping, spilling, leaking,  
13 or placing of any CCR upon the land in a place and manner  
14 so as to cause or tend to cause a violation this Section or  
15 any regulations or standards adopted by the Board under  
16 this Section.

17 (c) For purposes of this Section, a permit issued by the  
18 Administrator of the United States Environmental Protection  
19 Agency under Section 4005 of the federal Resource Conservation  
20 and Recovery Act, shall be deemed to be a permit under this  
21 Section and subsection (y) of Section 39.

22 (d) Before commencing closure of a CCR surface impoundment,  
23 in accordance with Board rules, the owner of a CCR surface  
24 impoundment must submit to the Agency for approval a closure  
25 alternatives analysis that analyzes all closure methods being  
26 considered and that otherwise satisfies all closure

1 requirements adopted by the Board under this Act. Complete  
2 removal of CCR, as specified by the Board's rules, from the CCR  
3 surface impoundment must be considered and analyzed. Section  
4 3.405 does not apply to the Board's rules specifying complete  
5 removal of CCR. The selected closure method must ensure  
6 compliance with regulations adopted by the Board pursuant to  
7 this Section.

8 (e) Owners or operators of CCR surface impoundments who  
9 have submitted a closure plan to the Agency before May 1, 2019,  
10 and who have completed closure prior to 24 months after the  
11 effective date of this amendatory Act of the 101st General  
12 Assembly shall not be required to obtain a construction permit  
13 for the surface impoundment closure under this Section.

14 (f) Except for the State, its agencies and institutions, a  
15 unit of local government, or not-for-profit electric  
16 cooperative as defined in Section 3.4 of the Electric Supplier  
17 Act, any person who owns or operates a CCR surface impoundment  
18 in this State shall post with the Agency a performance bond or  
19 other security for the purpose of: (i) ensuring closure of the  
20 CCR surface impoundment and post-closure care in accordance  
21 with this Act and its rules; and (ii) insuring remediation of  
22 releases from the CCR surface impoundment. The only acceptable  
23 forms of financial assurance are: a trust fund, a surety bond  
24 guaranteeing payment, a surety bond guaranteeing performance,  
25 or an irrevocable letter of credit.

26 (1) The cost estimate for the post-closure care of a

1 CCR surface impoundment shall be calculated using a 30-year  
2 post-closure care period or such longer period as may be  
3 approved by the Agency under Board or federal rules.

4 (2) The Agency is authorized to enter into such  
5 contracts and agreements as it may deem necessary to carry  
6 out the purposes of this Section. Neither the State, nor  
7 the Director, nor any State employee shall be liable for  
8 any damages or injuries arising out of or resulting from  
9 any action taken under this Section.

10 (3) The Agency shall have the authority to approve or  
11 disapprove any performance bond or other security posted  
12 under this subsection. Any person whose performance bond or  
13 other security is disapproved by the Agency may contest the  
14 disapproval as a permit denial appeal pursuant to Section  
15 40.

16 (g) The Board shall adopt rules establishing construction  
17 permit requirements, operating permit requirements, design  
18 standards, reporting, financial assurance, and closure and  
19 post-closure care requirements for CCR surface impoundments.  
20 Not later than 8 months after the effective date of this  
21 amendatory Act of the 101st General Assembly the Agency shall  
22 propose, and not later than one year after receipt of the  
23 Agency's proposal the Board shall adopt, rules under this  
24 Section. The rules must, at a minimum:

25 (1) be at least as protective and comprehensive as the  
26 federal regulations or amendments thereto promulgated by



1 the Administrator of the United States Environmental  
2 Protection Agency in Subpart D of 40 CFR 257 governing CCR  
3 surface impoundments;

4 (2) specify the minimum contents of CCR surface  
5 impoundment construction and operating permit  
6 applications, including the closure alternatives analysis  
7 required under subsection (d);

8 (3) specify which types of permits include  
9 requirements for closure, post-closure, remediation and  
10 all other requirements applicable to CCR surface  
11 impoundments;

12 (4) specify when permit applications for existing CCR  
13 surface impoundments must be submitted, taking into  
14 consideration whether the CCR surface impoundment must  
15 close under the RCRA;

16 (5) specify standards for review and approval by the  
17 Agency of CCR surface impoundment permit applications;

18 (6) specify meaningful public participation procedures  
19 for the issuance of CCR surface impoundment construction  
20 and operating permits, including, but not limited to,  
21 public notice of the submission of permit applications, an  
22 opportunity for the submission of public comments, an  
23 opportunity for a public hearing prior to permit issuance,  
24 and a summary and response of the comments prepared by the  
25 Agency;

26 (7) prescribe the type and amount of the performance

1 bonds or other securities required under subsection (f),  
2 and the conditions under which the State is entitled to  
3 collect moneys from such performance bonds or other  
4 securities;

5 (8) specify a procedure to identify areas of  
6 environmental justice concern in relation to CCR surface  
7 impoundments;

8 (9) specify a method to prioritize CCR surface  
9 impoundments required to close under RCRA if not otherwise  
10 specified by the United States Environmental Protection  
11 Agency, so that the CCR surface impoundments with the  
12 highest risk to public health and the environment, and  
13 areas of environmental justice concern are given first  
14 priority;

15 (10) define when complete removal of CCR is achieved  
16 and specify the standards for responsible removal of CCR  
17 from CCR surface impoundments, including, but not limited  
18 to, dust controls and the protection of adjacent surface  
19 water and groundwater; and

20 (11) describe the process and standards for  
21 identifying a specific alternative source of groundwater  
22 pollution when the owner or operator of the CCR surface  
23 impoundment believes that groundwater contamination on the  
24 site is not from the CCR surface impoundment.

25 (h) Any owner of a CCR surface impoundment that generates  
26 CCR and sells or otherwise provides coal combustion byproducts

1 pursuant to Section 3.135 shall, every 12 months, post on its  
2 publicly available website a report specifying the volume or  
3 weight of CCR, in cubic yards or tons, that it sold or provided  
4 during the past 12 months.

5 (i) The owner of a CCR surface impoundment shall post all  
6 closure plans, permit applications, and supporting  
7 documentation, as well as any Agency approval of the plans or  
8 applications on its publicly available website.

9 (j) The owner or operator of a CCR surface impoundment  
10 shall pay the following fees:

11 (1) An initial fee to the Agency within 6 months after  
12 the effective date of this amendatory Act of the 101st  
13 General Assembly of:

14 \$50,000 for each closed CCR surface impoundment;

15 and

16 \$75,000 for each CCR surface impoundment that have  
17 not completed closure.

18 (2) Annual fees to the Agency, beginning on July 1,  
19 2020, of:

20 \$25,000 for each CCR surface impoundment that has  
21 not completed closure; and

22 \$15,000 for each CCR surface impoundment that has  
23 completed closure, but has not completed post-closure  
24 care.

25 (k) All fees collected by the Agency under subsection (j)  
26 shall be deposited into the Environmental Protection Permit and

1 Inspection Fund.

2 (l) The Coal Combustion Residual Surface Impoundment  
3 Financial Assurance Fund is created as a special fund in the  
4 State treasury. Any moneys forfeited to the State of Illinois  
5 from any performance bond or other security required under this  
6 Section shall be placed in the Coal Combustion Residual Surface  
7 Impoundment Financial Assurance Fund and shall, upon approval  
8 by the Governor and the Director, be used by the Agency for the  
9 purposes for which such performance bond or other security was  
10 issued. The Coal Combustion Residual Surface Impoundment  
11 Financial Assurance Fund is not subject to the provisions of  
12 subsection (c) of Section 5 of the State Finance Act.

13 (m) The provisions of this Section shall apply, without  
14 limitation, to all existing CCR surface impoundments and any  
15 CCR surface impoundments constructed after the effective date  
16 of this amendatory Act of the 101st General Assembly, except to  
17 the extent prohibited by the Illinois or United States  
18 Constitutions.

19 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

20 Sec. 39. Issuance of permits; procedures.

21 (a) When the Board has by regulation required a permit for  
22 the construction, installation, or operation of any type of  
23 facility, equipment, vehicle, vessel, or aircraft, the  
24 applicant shall apply to the Agency for such permit and it  
25 shall be the duty of the Agency to issue such a permit upon

1 proof by the applicant that the facility, equipment, vehicle,  
2 vessel, or aircraft will not cause a violation of this Act or  
3 of regulations hereunder. The Agency shall adopt such  
4 procedures as are necessary to carry out its duties under this  
5 Section. In making its determinations on permit applications  
6 under this Section the Agency may consider prior adjudications  
7 of noncompliance with this Act by the applicant that involved a  
8 release of a contaminant into the environment. In granting  
9 permits, the Agency may impose reasonable conditions  
10 specifically related to the applicant's past compliance  
11 history with this Act as necessary to correct, detect, or  
12 prevent noncompliance. The Agency may impose such other  
13 conditions as may be necessary to accomplish the purposes of  
14 this Act, and as are not inconsistent with the regulations  
15 promulgated by the Board hereunder. Except as otherwise  
16 provided in this Act, a bond or other security shall not be  
17 required as a condition for the issuance of a permit. If the  
18 Agency denies any permit under this Section, the Agency shall  
19 transmit to the applicant within the time limitations of this  
20 Section specific, detailed statements as to the reasons the  
21 permit application was denied. Such statements shall include,  
22 but not be limited to the following:

23 (i) the Sections of this Act which may be violated if  
24 the permit were granted;

25 (ii) the provision of the regulations, promulgated  
26 under this Act, which may be violated if the permit were

1 granted;

2 (iii) the specific type of information, if any, which  
3 the Agency deems the applicant did not provide the Agency;  
4 and

5 (iv) a statement of specific reasons why the Act and  
6 the regulations might not be met if the permit were  
7 granted.

8 If there is no final action by the Agency within 90 days  
9 after the filing of the application for permit, the applicant  
10 may deem the permit issued; except that this time period shall  
11 be extended to 180 days when (1) notice and opportunity for  
12 public hearing are required by State or federal law or  
13 regulation, (2) the application which was filed is for any  
14 permit to develop a landfill subject to issuance pursuant to  
15 this subsection, or (3) the application that was filed is for a  
16 MSWLF unit required to issue public notice under subsection (p)  
17 of Section 39. The 90-day and 180-day time periods for the  
18 Agency to take final action do not apply to NPDES permit  
19 applications under subsection (b) of this Section, to RCRA  
20 permit applications under subsection (d) of this Section, ~~or~~ to  
21 UIC permit applications under subsection (e) of this Section,  
22 or to CCR surface impoundment applications under subsection (y)  
23 of this Section.

24 The Agency shall publish notice of all final permit  
25 determinations for development permits for MSWLF units and for  
26 significant permit modifications for lateral expansions for

1 existing MSWLF units one time in a newspaper of general  
2 circulation in the county in which the unit is or is proposed  
3 to be located.

4 After January 1, 1994 and until July 1, 1998, operating  
5 permits issued under this Section by the Agency for sources of  
6 air pollution permitted to emit less than 25 tons per year of  
7 any combination of regulated air pollutants, as defined in  
8 Section 39.5 of this Act, shall be required to be renewed only  
9 upon written request by the Agency consistent with applicable  
10 provisions of this Act and regulations promulgated hereunder.  
11 Such operating permits shall expire 180 days after the date of  
12 such a request. The Board shall revise its regulations for the  
13 existing State air pollution operating permit program  
14 consistent with this provision by January 1, 1994.

15 After June 30, 1998, operating permits issued under this  
16 Section by the Agency for sources of air pollution that are not  
17 subject to Section 39.5 of this Act and are not required to  
18 have a federally enforceable State operating permit shall be  
19 required to be renewed only upon written request by the Agency  
20 consistent with applicable provisions of this Act and its  
21 rules. Such operating permits shall expire 180 days after the  
22 date of such a request. Before July 1, 1998, the Board shall  
23 revise its rules for the existing State air pollution operating  
24 permit program consistent with this paragraph and shall adopt  
25 rules that require a source to demonstrate that it qualifies  
26 for a permit under this paragraph.

1           (b) The Agency may issue NPDES permits exclusively under  
2 this subsection for the discharge of contaminants from point  
3 sources into navigable waters, all as defined in the Federal  
4 Water Pollution Control Act, as now or hereafter amended,  
5 within the jurisdiction of the State, or into any well.

6           All NPDES permits shall contain those terms and conditions,  
7 including but not limited to schedules of compliance, which may  
8 be required to accomplish the purposes and provisions of this  
9 Act.

10          The Agency may issue general NPDES permits for discharges  
11 from categories of point sources which are subject to the same  
12 permit limitations and conditions. Such general permits may be  
13 issued without individual applications and shall conform to  
14 regulations promulgated under Section 402 of the Federal Water  
15 Pollution Control Act, as now or hereafter amended.

16          The Agency may include, among such conditions, effluent  
17 limitations and other requirements established under this Act,  
18 Board regulations, the Federal Water Pollution Control Act, as  
19 now or hereafter amended, and regulations pursuant thereto, and  
20 schedules for achieving compliance therewith at the earliest  
21 reasonable date.

22          The Agency shall adopt filing requirements and procedures  
23 which are necessary and appropriate for the issuance of NPDES  
24 permits, and which are consistent with the Act or regulations  
25 adopted by the Board, and with the Federal Water Pollution  
26 Control Act, as now or hereafter amended, and regulations



1 pursuant thereto.

2 The Agency, subject to any conditions which may be  
3 prescribed by Board regulations, may issue NPDES permits to  
4 allow discharges beyond deadlines established by this Act or by  
5 regulations of the Board without the requirement of a variance,  
6 subject to the Federal Water Pollution Control Act, as now or  
7 hereafter amended, and regulations pursuant thereto.

8 (c) Except for those facilities owned or operated by  
9 sanitary districts organized under the Metropolitan Water  
10 Reclamation District Act, no permit for the development or  
11 construction of a new pollution control facility may be granted  
12 by the Agency unless the applicant submits proof to the Agency  
13 that the location of the facility has been approved by the  
14 County Board of the county if in an unincorporated area, or the  
15 governing body of the municipality when in an incorporated  
16 area, in which the facility is to be located in accordance with  
17 Section 39.2 of this Act. For purposes of this subsection (c),  
18 and for purposes of Section 39.2 of this Act, the appropriate  
19 county board or governing body of the municipality shall be the  
20 county board of the county or the governing body of the  
21 municipality in which the facility is to be located as of the  
22 date when the application for siting approval is filed.

23 In the event that siting approval granted pursuant to  
24 Section 39.2 has been transferred to a subsequent owner or  
25 operator, that subsequent owner or operator may apply to the  
26 Agency for, and the Agency may grant, a development or

1 construction permit for the facility for which local siting  
2 approval was granted. Upon application to the Agency for a  
3 development or construction permit by that subsequent owner or  
4 operator, the permit applicant shall cause written notice of  
5 the permit application to be served upon the appropriate county  
6 board or governing body of the municipality that granted siting  
7 approval for that facility and upon any party to the siting  
8 proceeding pursuant to which siting approval was granted. In  
9 that event, the Agency shall conduct an evaluation of the  
10 subsequent owner or operator's prior experience in waste  
11 management operations in the manner conducted under subsection  
12 (i) of Section 39 of this Act.

13 Beginning August 20, 1993, if the pollution control  
14 facility consists of a hazardous or solid waste disposal  
15 facility for which the proposed site is located in an  
16 unincorporated area of a county with a population of less than  
17 100,000 and includes all or a portion of a parcel of land that  
18 was, on April 1, 1993, adjacent to a municipality having a  
19 population of less than 5,000, then the local siting review  
20 required under this subsection (c) in conjunction with any  
21 permit applied for after that date shall be performed by the  
22 governing body of that adjacent municipality rather than the  
23 county board of the county in which the proposed site is  
24 located; and for the purposes of that local siting review, any  
25 references in this Act to the county board shall be deemed to  
26 mean the governing body of that adjacent municipality;

1 provided, however, that the provisions of this paragraph shall  
2 not apply to any proposed site which was, on April 1, 1993,  
3 owned in whole or in part by another municipality.

4 In the case of a pollution control facility for which a  
5 development permit was issued before November 12, 1981, if an  
6 operating permit has not been issued by the Agency prior to  
7 August 31, 1989 for any portion of the facility, then the  
8 Agency may not issue or renew any development permit nor issue  
9 an original operating permit for any portion of such facility  
10 unless the applicant has submitted proof to the Agency that the  
11 location of the facility has been approved by the appropriate  
12 county board or municipal governing body pursuant to Section  
13 39.2 of this Act.

14 After January 1, 1994, if a solid waste disposal facility,  
15 any portion for which an operating permit has been issued by  
16 the Agency, has not accepted waste disposal for 5 or more  
17 consecutive calendars years, before that facility may accept  
18 any new or additional waste for disposal, the owner and  
19 operator must obtain a new operating permit under this Act for  
20 that facility unless the owner and operator have applied to the  
21 Agency for a permit authorizing the temporary suspension of  
22 waste acceptance. The Agency may not issue a new operation  
23 permit under this Act for the facility unless the applicant has  
24 submitted proof to the Agency that the location of the facility  
25 has been approved or re-approved by the appropriate county  
26 board or municipal governing body under Section 39.2 of this

1 Act after the facility ceased accepting waste.

2 Except for those facilities owned or operated by sanitary  
3 districts organized under the Metropolitan Water Reclamation  
4 District Act, and except for new pollution control facilities  
5 governed by Section 39.2, and except for fossil fuel mining  
6 facilities, the granting of a permit under this Act shall not  
7 relieve the applicant from meeting and securing all necessary  
8 zoning approvals from the unit of government having zoning  
9 jurisdiction over the proposed facility.

10 Before beginning construction on any new sewage treatment  
11 plant or sludge drying site to be owned or operated by a  
12 sanitary district organized under the Metropolitan Water  
13 Reclamation District Act for which a new permit (rather than  
14 the renewal or amendment of an existing permit) is required,  
15 such sanitary district shall hold a public hearing within the  
16 municipality within which the proposed facility is to be  
17 located, or within the nearest community if the proposed  
18 facility is to be located within an unincorporated area, at  
19 which information concerning the proposed facility shall be  
20 made available to the public, and members of the public shall  
21 be given the opportunity to express their views concerning the  
22 proposed facility.

23 The Agency may issue a permit for a municipal waste  
24 transfer station without requiring approval pursuant to  
25 Section 39.2 provided that the following demonstration is made:

26 (1) the municipal waste transfer station was in

1 existence on or before January 1, 1979 and was in  
2 continuous operation from January 1, 1979 to January 1,  
3 1993;

4 (2) the operator submitted a permit application to the  
5 Agency to develop and operate the municipal waste transfer  
6 station during April of 1994;

7 (3) the operator can demonstrate that the county board  
8 of the county, if the municipal waste transfer station is  
9 in an unincorporated area, or the governing body of the  
10 municipality, if the station is in an incorporated area,  
11 does not object to resumption of the operation of the  
12 station; and

13 (4) the site has local zoning approval.

14 (d) The Agency may issue RCRA permits exclusively under  
15 this subsection to persons owning or operating a facility for  
16 the treatment, storage, or disposal of hazardous waste as  
17 defined under this Act. Subsection (y) of this Section, rather  
18 than this subsection (d), shall apply to permits issued for CCR  
19 surface impoundments.

20 All RCRA permits shall contain those terms and conditions,  
21 including but not limited to schedules of compliance, which may  
22 be required to accomplish the purposes and provisions of this  
23 Act. The Agency may include among such conditions standards and  
24 other requirements established under this Act, Board  
25 regulations, the Resource Conservation and Recovery Act of 1976  
26 (P.L. 94-580), as amended, and regulations pursuant thereto,

1 and may include schedules for achieving compliance therewith as  
2 soon as possible. The Agency shall require that a performance  
3 bond or other security be provided as a condition for the  
4 issuance of a RCRA permit.

5 In the case of a permit to operate a hazardous waste or PCB  
6 incinerator as defined in subsection (k) of Section 44, the  
7 Agency shall require, as a condition of the permit, that the  
8 operator of the facility perform such analyses of the waste to  
9 be incinerated as may be necessary and appropriate to ensure  
10 the safe operation of the incinerator.

11 The Agency shall adopt filing requirements and procedures  
12 which are necessary and appropriate for the issuance of RCRA  
13 permits, and which are consistent with the Act or regulations  
14 adopted by the Board, and with the Resource Conservation and  
15 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations  
16 pursuant thereto.

17 The applicant shall make available to the public for  
18 inspection all documents submitted by the applicant to the  
19 Agency in furtherance of an application, with the exception of  
20 trade secrets, at the office of the county board or governing  
21 body of the municipality. Such documents may be copied upon  
22 payment of the actual cost of reproduction during regular  
23 business hours of the local office. The Agency shall issue a  
24 written statement concurrent with its grant or denial of the  
25 permit explaining the basis for its decision.

26 (e) The Agency may issue UIC permits exclusively under this

1 subsection to persons owning or operating a facility for the  
2 underground injection of contaminants as defined under this  
3 Act.

4 All UIC permits shall contain those terms and conditions,  
5 including but not limited to schedules of compliance, which may  
6 be required to accomplish the purposes and provisions of this  
7 Act. The Agency may include among such conditions standards and  
8 other requirements established under this Act, Board  
9 regulations, the Safe Drinking Water Act (P.L. 93-523), as  
10 amended, and regulations pursuant thereto, and may include  
11 schedules for achieving compliance therewith. The Agency shall  
12 require that a performance bond or other security be provided  
13 as a condition for the issuance of a UIC permit.

14 The Agency shall adopt filing requirements and procedures  
15 which are necessary and appropriate for the issuance of UIC  
16 permits, and which are consistent with the Act or regulations  
17 adopted by the Board, and with the Safe Drinking Water Act  
18 (P.L. 93-523), as amended, and regulations pursuant thereto.

19 The applicant shall make available to the public for  
20 inspection, all documents submitted by the applicant to the  
21 Agency in furtherance of an application, with the exception of  
22 trade secrets, at the office of the county board or governing  
23 body of the municipality. Such documents may be copied upon  
24 payment of the actual cost of reproduction during regular  
25 business hours of the local office. The Agency shall issue a  
26 written statement concurrent with its grant or denial of the

1 permit explaining the basis for its decision.

2 (f) In making any determination pursuant to Section 9.1 of  
3 this Act:

4 (1) The Agency shall have authority to make the  
5 determination of any question required to be determined by  
6 the Clean Air Act, as now or hereafter amended, this Act,  
7 or the regulations of the Board, including the  
8 determination of the Lowest Achievable Emission Rate,  
9 Maximum Achievable Control Technology, or Best Available  
10 Control Technology, consistent with the Board's  
11 regulations, if any.

12 (2) The Agency shall adopt requirements as necessary to  
13 implement public participation procedures, including, but  
14 not limited to, public notice, comment, and an opportunity  
15 for hearing, which must accompany the processing of  
16 applications for PSD permits. The Agency shall briefly  
17 describe and respond to all significant comments on the  
18 draft permit raised during the public comment period or  
19 during any hearing. The Agency may group related comments  
20 together and provide one unified response for each issue  
21 raised.

22 (3) Any complete permit application submitted to the  
23 Agency under this subsection for a PSD permit shall be  
24 granted or denied by the Agency not later than one year  
25 after the filing of such completed application.

26 (4) The Agency shall, after conferring with the



1 applicant, give written notice to the applicant of its  
2 proposed decision on the application including the terms  
3 and conditions of the permit to be issued and the facts,  
4 conduct or other basis upon which the Agency will rely to  
5 support its proposed action.

6 (g) The Agency shall include as conditions upon all permits  
7 issued for hazardous waste disposal sites such restrictions  
8 upon the future use of such sites as are reasonably necessary  
9 to protect public health and the environment, including  
10 permanent prohibition of the use of such sites for purposes  
11 which may create an unreasonable risk of injury to human health  
12 or to the environment. After administrative and judicial  
13 challenges to such restrictions have been exhausted, the Agency  
14 shall file such restrictions of record in the Office of the  
15 Recorder of the county in which the hazardous waste disposal  
16 site is located.

17 (h) A hazardous waste stream may not be deposited in a  
18 permitted hazardous waste site unless specific authorization  
19 is obtained from the Agency by the generator and disposal site  
20 owner and operator for the deposit of that specific hazardous  
21 waste stream. The Agency may grant specific authorization for  
22 disposal of hazardous waste streams only after the generator  
23 has reasonably demonstrated that, considering technological  
24 feasibility and economic reasonableness, the hazardous waste  
25 cannot be reasonably recycled for reuse, nor incinerated or  
26 chemically, physically or biologically treated so as to

1 neutralize the hazardous waste and render it nonhazardous. In  
2 granting authorization under this Section, the Agency may  
3 impose such conditions as may be necessary to accomplish the  
4 purposes of the Act and are consistent with this Act and  
5 regulations promulgated by the Board hereunder. If the Agency  
6 refuses to grant authorization under this Section, the  
7 applicant may appeal as if the Agency refused to grant a  
8 permit, pursuant to the provisions of subsection (a) of Section  
9 40 of this Act. For purposes of this subsection (h), the term  
10 "generator" has the meaning given in Section 3.205 of this Act,  
11 unless: (1) the hazardous waste is treated, incinerated, or  
12 partially recycled for reuse prior to disposal, in which case  
13 the last person who treats, incinerates, or partially recycles  
14 the hazardous waste prior to disposal is the generator; or (2)  
15 the hazardous waste is from a response action, in which case  
16 the person performing the response action is the generator.  
17 This subsection (h) does not apply to any hazardous waste that  
18 is restricted from land disposal under 35 Ill. Adm. Code 728.

19 (i) Before issuing any RCRA permit, any permit for a waste  
20 storage site, sanitary landfill, waste disposal site, waste  
21 transfer station, waste treatment facility, waste incinerator,  
22 or any waste-transportation operation, any permit or interim  
23 authorization for a clean construction or demolition debris  
24 fill operation, or any permit required under subsection (d-5)  
25 of Section 55, the Agency shall conduct an evaluation of the  
26 prospective owner's or operator's prior experience in waste

1 management operations, clean construction or demolition debris  
2 fill operations, and tire storage site management. The Agency  
3 may deny such a permit, or deny or revoke interim  
4 authorization, if the prospective owner or operator or any  
5 employee or officer of the prospective owner or operator has a  
6 history of:

7 (1) repeated violations of federal, State, or local  
8 laws, regulations, standards, or ordinances in the  
9 operation of waste management facilities or sites, clean  
10 construction or demolition debris fill operation  
11 facilities or sites, or tire storage sites; or

12 (2) conviction in this or another State of any crime  
13 which is a felony under the laws of this State, or  
14 conviction of a felony in a federal court; or conviction in  
15 this or another state or federal court of any of the  
16 following crimes: forgery, official misconduct, bribery,  
17 perjury, or knowingly submitting false information under  
18 any environmental law, regulation, or permit term or  
19 condition; or

20 (3) proof of gross carelessness or incompetence in  
21 handling, storing, processing, transporting or disposing  
22 of waste, clean construction or demolition debris, or used  
23 or waste tires, or proof of gross carelessness or  
24 incompetence in using clean construction or demolition  
25 debris as fill.

26 (i-5) Before issuing any permit or approving any interim

1 authorization for a clean construction or demolition debris  
2 fill operation in which any ownership interest is transferred  
3 between January 1, 2005, and the effective date of the  
4 prohibition set forth in Section 22.52 of this Act, the Agency  
5 shall conduct an evaluation of the operation if any previous  
6 activities at the site or facility may have caused or allowed  
7 contamination of the site. It shall be the responsibility of  
8 the owner or operator seeking the permit or interim  
9 authorization to provide to the Agency all of the information  
10 necessary for the Agency to conduct its evaluation. The Agency  
11 may deny a permit or interim authorization if previous  
12 activities at the site may have caused or allowed contamination  
13 at the site, unless such contamination is authorized under any  
14 permit issued by the Agency.

15 (j) The issuance under this Act of a permit to engage in  
16 the surface mining of any resources other than fossil fuels  
17 shall not relieve the permittee from its duty to comply with  
18 any applicable local law regulating the commencement, location  
19 or operation of surface mining facilities.

20 (k) A development permit issued under subsection (a) of  
21 Section 39 for any facility or site which is required to have a  
22 permit under subsection (d) of Section 21 shall expire at the  
23 end of 2 calendar years from the date upon which it was issued,  
24 unless within that period the applicant has taken action to  
25 develop the facility or the site. In the event that review of  
26 the conditions of the development permit is sought pursuant to

1 Section 40 or 41, or permittee is prevented from commencing  
2 development of the facility or site by any other litigation  
3 beyond the permittee's control, such two-year period shall be  
4 deemed to begin on the date upon which such review process or  
5 litigation is concluded.

6 (l) No permit shall be issued by the Agency under this Act  
7 for construction or operation of any facility or site located  
8 within the boundaries of any setback zone established pursuant  
9 to this Act, where such construction or operation is  
10 prohibited.

11 (m) The Agency may issue permits to persons owning or  
12 operating a facility for composting landscape waste. In  
13 granting such permits, the Agency may impose such conditions as  
14 may be necessary to accomplish the purposes of this Act, and as  
15 are not inconsistent with applicable regulations promulgated  
16 by the Board. Except as otherwise provided in this Act, a bond  
17 or other security shall not be required as a condition for the  
18 issuance of a permit. If the Agency denies any permit pursuant  
19 to this subsection, the Agency shall transmit to the applicant  
20 within the time limitations of this subsection specific,  
21 detailed statements as to the reasons the permit application  
22 was denied. Such statements shall include but not be limited to  
23 the following:

24 (1) the Sections of this Act that may be violated if  
25 the permit were granted;

26 (2) the specific regulations promulgated pursuant to

1 this Act that may be violated if the permit were granted;

2 (3) the specific information, if any, the Agency deems  
3 the applicant did not provide in its application to the  
4 Agency; and

5 (4) a statement of specific reasons why the Act and the  
6 regulations might be violated if the permit were granted.

7 If no final action is taken by the Agency within 90 days  
8 after the filing of the application for permit, the applicant  
9 may deem the permit issued. Any applicant for a permit may  
10 waive the 90-day limitation by filing a written statement with  
11 the Agency.

12 The Agency shall issue permits for such facilities upon  
13 receipt of an application that includes a legal description of  
14 the site, a topographic map of the site drawn to the scale of  
15 200 feet to the inch or larger, a description of the operation,  
16 including the area served, an estimate of the volume of  
17 materials to be processed, and documentation that:

18 (1) the facility includes a setback of at least 200  
19 feet from the nearest potable water supply well;

20 (2) the facility is located outside the boundary of the  
21 10-year floodplain or the site will be floodproofed;

22 (3) the facility is located so as to minimize  
23 incompatibility with the character of the surrounding  
24 area, including at least a 200 foot setback from any  
25 residence, and in the case of a facility that is developed  
26 or the permitted composting area of which is expanded after

1 November 17, 1991, the composting area is located at least  
2 1/8 mile from the nearest residence (other than a residence  
3 located on the same property as the facility);

4 (4) the design of the facility will prevent any compost  
5 material from being placed within 5 feet of the water  
6 table, will adequately control runoff from the site, and  
7 will collect and manage any leachate that is generated on  
8 the site;

9 (5) the operation of the facility will include  
10 appropriate dust and odor control measures, limitations on  
11 operating hours, appropriate noise control measures for  
12 shredding, chipping and similar equipment, management  
13 procedures for composting, containment and disposal of  
14 non-compostable wastes, procedures to be used for  
15 terminating operations at the site, and recordkeeping  
16 sufficient to document the amount of materials received,  
17 composted and otherwise disposed of; and

18 (6) the operation will be conducted in accordance with  
19 any applicable rules adopted by the Board.

20 The Agency shall issue renewable permits of not longer than  
21 10 years in duration for the composting of landscape wastes, as  
22 defined in Section 3.155 of this Act, based on the above  
23 requirements.

24 The operator of any facility permitted under this  
25 subsection (m) must submit a written annual statement to the  
26 Agency on or before April 1 of each year that includes an

1 estimate of the amount of material, in tons, received for  
2 composting.

3 (n) The Agency shall issue permits jointly with the  
4 Department of Transportation for the dredging or deposit of  
5 material in Lake Michigan in accordance with Section 18 of the  
6 Rivers, Lakes, and Streams Act.

7 (o) (Blank.)

8 (p) (1) Any person submitting an application for a permit  
9 for a new MSWLF unit or for a lateral expansion under  
10 subsection (t) of Section 21 of this Act for an existing MSWLF  
11 unit that has not received and is not subject to local siting  
12 approval under Section 39.2 of this Act shall publish notice of  
13 the application in a newspaper of general circulation in the  
14 county in which the MSWLF unit is or is proposed to be located.  
15 The notice must be published at least 15 days before submission  
16 of the permit application to the Agency. The notice shall state  
17 the name and address of the applicant, the location of the  
18 MSWLF unit or proposed MSWLF unit, the nature and size of the  
19 MSWLF unit or proposed MSWLF unit, the nature of the activity  
20 proposed, the probable life of the proposed activity, the date  
21 the permit application will be submitted, and a statement that  
22 persons may file written comments with the Agency concerning  
23 the permit application within 30 days after the filing of the  
24 permit application unless the time period to submit comments is  
25 extended by the Agency.

26 When a permit applicant submits information to the Agency



1 to supplement a permit application being reviewed by the  
2 Agency, the applicant shall not be required to reissue the  
3 notice under this subsection.

4 (2) The Agency shall accept written comments concerning the  
5 permit application that are postmarked no later than 30 days  
6 after the filing of the permit application, unless the time  
7 period to accept comments is extended by the Agency.

8 (3) Each applicant for a permit described in part (1) of  
9 this subsection shall file a copy of the permit application  
10 with the county board or governing body of the municipality in  
11 which the MSWLF unit is or is proposed to be located at the  
12 same time the application is submitted to the Agency. The  
13 permit application filed with the county board or governing  
14 body of the municipality shall include all documents submitted  
15 to or to be submitted to the Agency, except trade secrets as  
16 determined under Section 7.1 of this Act. The permit  
17 application and other documents on file with the county board  
18 or governing body of the municipality shall be made available  
19 for public inspection during regular business hours at the  
20 office of the county board or the governing body of the  
21 municipality and may be copied upon payment of the actual cost  
22 of reproduction.

23 (q) Within 6 months after July 12, 2011 (the effective date  
24 of Public Act 97-95), the Agency, in consultation with the  
25 regulated community, shall develop a web portal to be posted on  
26 its website for the purpose of enhancing review and promoting

1 timely issuance of permits required by this Act. At a minimum,  
2 the Agency shall make the following information available on  
3 the web portal:

4 (1) Checklists and guidance relating to the completion  
5 of permit applications, developed pursuant to subsection  
6 (s) of this Section, which may include, but are not limited  
7 to, existing instructions for completing the applications  
8 and examples of complete applications. As the Agency  
9 develops new checklists and develops guidance, it shall  
10 supplement the web portal with those materials.

11 (2) Within 2 years after July 12, 2011 (the effective  
12 date of Public Act 97-95), permit application forms or  
13 portions of permit applications that can be completed and  
14 saved electronically, and submitted to the Agency  
15 electronically with digital signatures.

16 (3) Within 2 years after July 12, 2011 (the effective  
17 date of Public Act 97-95), an online tracking system where  
18 an applicant may review the status of its pending  
19 application, including the name and contact information of  
20 the permit analyst assigned to the application. Until the  
21 online tracking system has been developed, the Agency shall  
22 post on its website semi-annual permitting efficiency  
23 tracking reports that include statistics on the timeframes  
24 for Agency action on the following types of permits  
25 received after July 12, 2011 (the effective date of Public  
26 Act 97-95): air construction permits, new NPDES permits and

1 associated water construction permits, and modifications  
2 of major NPDES permits and associated water construction  
3 permits. The reports must be posted by February 1 and  
4 August 1 each year and shall include:

5 (A) the number of applications received for each  
6 type of permit, the number of applications on which the  
7 Agency has taken action, and the number of applications  
8 still pending; and

9 (B) for those applications where the Agency has not  
10 taken action in accordance with the timeframes set  
11 forth in this Act, the date the application was  
12 received and the reasons for any delays, which may  
13 include, but shall not be limited to, (i) the  
14 application being inadequate or incomplete, (ii)  
15 scientific or technical disagreements with the  
16 applicant, USEPA, or other local, state, or federal  
17 agencies involved in the permitting approval process,  
18 (iii) public opposition to the permit, or (iv) Agency  
19 staffing shortages. To the extent practicable, the  
20 tracking report shall provide approximate dates when  
21 cause for delay was identified by the Agency, when the  
22 Agency informed the applicant of the problem leading to  
23 the delay, and when the applicant remedied the reason  
24 for the delay.

25 (r) Upon the request of the applicant, the Agency shall  
26 notify the applicant of the permit analyst assigned to the

1 application upon its receipt.

2 (s) The Agency is authorized to prepare and distribute  
3 guidance documents relating to its administration of this  
4 Section and procedural rules implementing this Section.  
5 Guidance documents prepared under this subsection shall not be  
6 considered rules and shall not be subject to the Illinois  
7 Administrative Procedure Act. Such guidance shall not be  
8 binding on any party.

9 (t) Except as otherwise prohibited by federal law or  
10 regulation, any person submitting an application for a permit  
11 may include with the application suggested permit language for  
12 Agency consideration. The Agency is not obligated to use the  
13 suggested language or any portion thereof in its permitting  
14 decision. If requested by the permit applicant, the Agency  
15 shall meet with the applicant to discuss the suggested  
16 language.

17 (u) If requested by the permit applicant, the Agency shall  
18 provide the permit applicant with a copy of the draft permit  
19 prior to any public review period.

20 (v) If requested by the permit applicant, the Agency shall  
21 provide the permit applicant with a copy of the final permit  
22 prior to its issuance.

23 (w) An air pollution permit shall not be required due to  
24 emissions of greenhouse gases, as specified by Section 9.15 of  
25 this Act.

26 (x) If, before the expiration of a State operating permit

1 that is issued pursuant to subsection (a) of this Section and  
2 contains federally enforceable conditions limiting the  
3 potential to emit of the source to a level below the major  
4 source threshold for that source so as to exclude the source  
5 from the Clean Air Act Permit Program, the Agency receives a  
6 complete application for the renewal of that permit, then all  
7 of the terms and conditions of the permit shall remain in  
8 effect until final administrative action has been taken on the  
9 application for the renewal of the permit.

10 (y) The Agency may issue permits exclusively under this  
11 subsection to persons owning or operating a CCR surface  
12 impoundment subject to Section 22.59.

13 All CCR surface impoundment permits shall contain those  
14 terms and conditions, including, but not limited to, schedules  
15 of compliance, which may be required to accomplish the purposes  
16 and provisions of this Act, Board regulations, the Illinois  
17 Groundwater Protection Act and regulations pursuant thereto,  
18 and the Resource Conservation and Recovery Act and regulations  
19 pursuant thereto, and may include schedules for achieving  
20 compliance therewith as soon as possible.

21 The Board shall adopt filing requirements and procedures  
22 that are necessary and appropriate for the issuance of CCR  
23 surface impoundment permits and that are consistent with this  
24 Act or regulations adopted by the Board, and with the RCRA, as  
25 amended, and regulations pursuant thereto.

26 The applicant shall make available to the public for

1 inspection all documents submitted by the applicant to the  
2 Agency in furtherance of an application, with the exception of  
3 trade secrets, on its public internet website as well as at the  
4 office of the county board or governing body of the  
5 municipality where CCR from the CCR surface impoundment will be  
6 permanently disposed. Such documents may be copied upon payment  
7 of the actual cost of reproduction during regular business  
8 hours of the local office.

9 The Agency shall issue a written statement concurrent with  
10 its grant or denial of the permit explaining the basis for its  
11 decision.

12 (Source: P.A. 98-284, eff. 8-9-13; 99-396, eff. 8-18-15;  
13 99-463, eff. 1-1-16; 99-642, eff. 7-28-16.)

14 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

15 Sec. 40. Appeal of permit denial.

16 (a)(1) If the Agency refuses to grant or grants with  
17 conditions a permit under Section 39 of this Act, the applicant  
18 may, within 35 days after the date on which the Agency served  
19 its decision on the applicant, petition for a hearing before  
20 the Board to contest the decision of the Agency. However, the  
21 35-day period for petitioning for a hearing may be extended for  
22 an additional period of time not to exceed 90 days by written  
23 notice provided to the Board from the applicant and the Agency  
24 within the initial appeal period. The Board shall give 21 days'  
25 notice to any person in the county where is located the

1 facility in issue who has requested notice of enforcement  
2 proceedings and to each member of the General Assembly in whose  
3 legislative district that installation or property is located;  
4 and shall publish that 21-day notice in a newspaper of general  
5 circulation in that county. The Agency shall appear as  
6 respondent in such hearing. At such hearing the rules  
7 prescribed in Section 32 and subsection (a) of Section 33 of  
8 this Act shall apply, and the burden of proof shall be on the  
9 petitioner. If, however, the Agency issues an NPDES permit that  
10 imposes limits which are based upon a criterion or denies a  
11 permit based upon application of a criterion, then the Agency  
12 shall have the burden of going forward with the basis for the  
13 derivation of those limits or criterion which were derived  
14 under the Board's rules.

15 (2) Except as provided in paragraph (a)(3), if there is no  
16 final action by the Board within 120 days after the date on  
17 which it received the petition, the petitioner may deem the  
18 permit issued under this Act, provided, however, that that  
19 period of 120 days shall not run for any period of time, not to  
20 exceed 30 days, during which the Board is without sufficient  
21 membership to constitute the quorum required by subsection (a)  
22 of Section 5 of this Act, and provided further that such 120  
23 day period shall not be stayed for lack of quorum beyond 30  
24 days regardless of whether the lack of quorum exists at the  
25 beginning of such 120-day period or occurs during the running  
26 of such 120-day period.

1           (3) Paragraph (a) (2) shall not apply to any permit which is  
2 subject to subsection (b), (d) or (e) of Section 39. If there  
3 is no final action by the Board within 120 days after the date  
4 on which it received the petition, the petitioner shall be  
5 entitled to an Appellate Court order pursuant to subsection (d)  
6 of Section 41 of this Act.

7           (b) If the Agency grants a RCRA permit for a hazardous  
8 waste disposal site, a third party, other than the permit  
9 applicant or Agency, may, within 35 days after the date on  
10 which the Agency issued its decision, petition the Board for a  
11 hearing to contest the issuance of the permit. Unless the Board  
12 determines that such petition is duplicative or frivolous, or  
13 that the petitioner is so located as to not be affected by the  
14 permitted facility, the Board shall hear the petition in  
15 accordance with the terms of subsection (a) of this Section and  
16 its procedural rules governing denial appeals, such hearing to  
17 be based exclusively on the record before the Agency. The  
18 burden of proof shall be on the petitioner. The Agency and the  
19 permit applicant shall be named co-respondents.

20           The provisions of this subsection do not apply to the  
21 granting of permits issued for the disposal or utilization of  
22 sludge from publicly-owned sewage works.

23           (c) Any party to an Agency proceeding conducted pursuant to  
24 Section 39.3 of this Act may petition as of right to the Board  
25 for review of the Agency's decision within 35 days from the  
26 date of issuance of the Agency's decision, provided that such



1 appeal is not duplicative or frivolous. However, the 35-day  
2 period for petitioning for a hearing may be extended by the  
3 applicant for a period of time not to exceed 90 days by written  
4 notice provided to the Board from the applicant and the Agency  
5 within the initial appeal period. If another person with  
6 standing to appeal wishes to obtain an extension, there must be  
7 a written notice provided to the Board by that person, the  
8 Agency, and the applicant, within the initial appeal period.  
9 The decision of the Board shall be based exclusively on the  
10 record compiled in the Agency proceeding. In other respects the  
11 Board's review shall be conducted in accordance with subsection  
12 (a) of this Section and the Board's procedural rules governing  
13 permit denial appeals.

14 (d) In reviewing the denial or any condition of a NA NSR  
15 permit issued by the Agency pursuant to rules and regulations  
16 adopted under subsection (c) of Section 9.1 of this Act, the  
17 decision of the Board shall be based exclusively on the record  
18 before the Agency including the record of the hearing, if any,  
19 unless the parties agree to supplement the record. The Board  
20 shall, if it finds the Agency is in error, make a final  
21 determination as to the substantive limitations of the permit  
22 including a final determination of Lowest Achievable Emission  
23 Rate.

24 (e) (1) If the Agency grants or denies a permit under  
25 subsection (b) of Section 39 of this Act, a third party, other  
26 than the permit applicant or Agency, may petition the Board

1 within 35 days from the date of issuance of the Agency's  
2 decision, for a hearing to contest the decision of the Agency.

3 (2) A petitioner shall include the following within a  
4 petition submitted under subdivision (1) of this subsection:

5 (A) a demonstration that the petitioner raised the  
6 issues contained within the petition during the public  
7 notice period or during the public hearing on the NPDES  
8 permit application, if a public hearing was held; and

9 (B) a demonstration that the petitioner is so situated  
10 as to be affected by the permitted facility.

11 (3) If the Board determines that the petition is not  
12 duplicative or frivolous and contains a satisfactory  
13 demonstration under subdivision (2) of this subsection, the  
14 Board shall hear the petition (i) in accordance with the terms  
15 of subsection (a) of this Section and its procedural rules  
16 governing permit denial appeals and (ii) exclusively on the  
17 basis of the record before the Agency. The burden of proof  
18 shall be on the petitioner. The Agency and permit applicant  
19 shall be named co-respondents.

20 (f) Any person who files a petition to contest the issuance  
21 of a permit by the Agency shall pay a filing fee.

22 (g) If the Agency grants or denies a permit under  
23 subsection (y) of Section 39, a third party, other than the  
24 permit applicant or Agency, may appeal the Agency's decision as  
25 provided under federal law for CCR surface impoundment permits.

26 (Source: P.A. 99-463, eff. 1-1-16; 100-201, eff. 8-18-17.)

1           Section 10. The State Finance Act is amended by adding  
2 Section 5.891 as follows:

3           (30 ILCS 105/5.891 new)

4           Sec. 5.891. The Coal Combustion Residual Surface  
5 Impoundment Financial Assurance Fund.

6           Section 97. Severability. The provisions of this Act are  
7 severable under Section 1.31 of the Statute on Statutes.

8           Section 99. Effective date. This Act takes effect upon  
9 becoming law.