



Rep. Carol Ammons

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1 AMENDMENT TO SENATE BILL 9

2 AMENDMENT NO. _____. Amend Senate Bill 9, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Environmental Protection Act is amended by
6 changing Sections 3.140, 21, 39, and 40 and by adding Sections
7 3.142, 3.143, and 22.59 as follows:

8 (415 ILCS 5/3.140) (was 415 ILCS 5/3.76)

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

13 (1) coal, or

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

1 (3) coal (with or without: (i) fuel grade petroleum coke,
2 (ii) other fossil fuel, or (iii) both fuel grade petroleum coke
3 and other fossil fuel) in combination with no more than 20% of
4 tire derived fuel or wood or other materials by weight of the
5 materials combusted; provided that the coal is burned with
6 other materials, the Agency has made a written determination
7 that the storage or disposal of the resultant wastes in
8 accordance with the provisions of item (r) of Section 21 would
9 result in no environmental impact greater than that of wastes
10 generated as a result of the combustion of coal alone, and the
11 storage disposal of the resultant wastes would not violate
12 applicable federal law.

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

14 (415 ILCS 5/3.142 new)

15 Sec. 3.142. Coal combustion residual; CCR. "Coal
16 combustion residual" or "CCR" means fly ash, bottom ash, boiler
17 slag, and flue gas desulfurization materials generated from
18 burning coal for the purpose of generating electricity by
19 electric utilities and independent power producers.

20 (415 ILCS 5/3.143 new)

21 Sec. 3.143. CCR surface impoundment. "CCR surface
22 impoundment" means a natural topographic depression, man-made
23 excavation, or diked area, which is designed to hold an
24 accumulation of CCR and liquids, and the unit treats, stores,

1 or disposes of CCR.

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

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

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

5 (b) Abandon, dump, or deposit any waste upon the public
6 highways or other public property, except in a sanitary
7 landfill approved by the Agency pursuant to regulations adopted
8 by the Board.

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

12 (d) Conduct any waste-storage, waste-treatment, or
13 waste-disposal operation:

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

23 (i) any person conducting a waste-storage,
24 waste-treatment, or waste-disposal operation for wastes
25 generated by such person's own activities which are stored,

1 treated, or disposed within the site where such wastes are
2 generated, or (ii) a facility located in a county with a
3 population over 700,000 as of January 1, 2000, operated and
4 located in accordance with Section 22.38 of this Act, and
5 used exclusively for the transfer, storage, or treatment of
6 general construction or demolition debris, provided that
7 the facility was receiving construction or demolition
8 debris on the effective date of this amendatory Act of the
9 96th General Assembly;

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

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

1 types and amounts of waste stored, treated or disposed of
2 on an annual basis; the remaining capacity of the
3 operation; and the remaining expected life of the
4 operation.

5 Item (3) of this subsection (d) shall not apply to any
6 person engaged in agricultural activity who is disposing of a
7 substance that constitutes solid waste, if the substance was
8 acquired for use by that person on his own property, and the
9 substance is disposed of on his own property in accordance with
10 regulations or standards adopted by the Board.

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

12 (e) Dispose, treat, store or abandon any waste, or
13 transport any waste into this State for disposal, treatment,
14 storage or abandonment, except at a site or facility which
15 meets the requirements of this Act and of regulations and
16 standards thereunder.

17 (f) Conduct any hazardous waste-storage, hazardous
18 waste-treatment or hazardous waste-disposal operation:

19 (1) without a RCRA permit for the site issued by the
20 Agency under subsection (d) of Section 39 of this Act, or
21 in violation of any condition imposed by such permit,
22 including periodic reports and full access to adequate
23 records and the inspection of facilities, as may be
24 necessary to assure compliance with this Act and with
25 regulations and standards adopted thereunder; or

26 (2) in violation of any regulations or standards

1 adopted by the Board under this Act; or

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

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

7 Notwithstanding the above, no RCRA permit shall be required
8 under this subsection or subsection (d) of Section 39 of this
9 Act for any person engaged in agricultural activity who is
10 disposing of a substance which has been identified as a
11 hazardous waste, and which has been designated by Board
12 regulations as being subject to this exception, if the
13 substance was acquired for use by that person on his own
14 property and the substance is disposed of on his own property
15 in accordance with regulations or standards adopted by the
16 Board.

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

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

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

23 (h) Conduct any hazardous waste-recycling or hazardous
24 waste-reclamation or hazardous waste-reuse operation in
25 violation of any regulations, standards or permit requirements
26 adopted by the Board under this Act.

1 (i) Conduct any process or engage in any act which produces
2 hazardous waste in violation of any regulations or standards
3 adopted by the Board under subsections (a) and (c) of Section
4 22.4 of this Act.

5 (j) Conduct any special waste transportation operation in
6 violation of any regulations, standards or permit requirements
7 adopted by the Board under this Act. However, sludge from a
8 water or sewage treatment plant owned and operated by a unit of
9 local government which (1) is subject to a sludge management
10 plan approved by the Agency or a permit granted by the Agency,
11 and (2) has been tested and determined not to be a hazardous
12 waste as required by applicable State and federal laws and
13 regulations, may be transported in this State without a special
14 waste hauling permit, and the preparation and carrying of a
15 manifest shall not be required for such sludge under the rules
16 of the Pollution Control Board. The unit of local government
17 which operates the treatment plant producing such sludge shall
18 file an annual report with the Agency identifying the volume of
19 such sludge transported during the reporting period, the hauler
20 of the sludge, and the disposal sites to which it was
21 transported. This subsection (j) shall not apply to hazardous
22 waste.

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

24 (l) Locate a hazardous waste disposal site above an active
25 or inactive shaft or tunneled mine or within 2 miles of an
26 active fault in the earth's crust. In counties of population

1 less than 225,000 no hazardous waste disposal site shall be
2 located (1) within 1 1/2 miles of the corporate limits as
3 defined on June 30, 1978, of any municipality without the
4 approval of the governing body of the municipality in an
5 official action; or (2) within 1000 feet of an existing private
6 well or the existing source of a public water supply measured
7 from the boundary of the actual active permitted site and
8 excluding existing private wells on the property of the permit
9 applicant. The provisions of this subsection do not apply to
10 publicly-owned sewage works or the disposal or utilization of
11 sludge from publicly-owned sewage works.

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

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

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

23 (1) refuse in standing or flowing waters;

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

25 (3) leachate flows exiting the landfill confines (as
26 determined by the boundaries established for the landfill

1 by a permit issued by the Agency);

2 (4) open burning of refuse in violation of Section 9 of
3 this Act;

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

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

9 (7) acceptance of wastes without necessary permits;

10 (8) scavenging as defined by Board regulations;

11 (9) deposition of refuse in any unpermitted portion of
12 the landfill;

13 (10) acceptance of a special waste without a required
14 manifest;

15 (11) failure to submit reports required by permits or
16 Board regulations;

17 (12) failure to collect and contain litter from the
18 site by the end of each operating day;

19 (13) failure to submit any cost estimate for the site
20 or any performance bond or other security for the site as
21 required by this Act or Board rules.

22 The prohibitions specified in this subsection (o) shall be
23 enforceable by the Agency either by administrative citation
24 under Section 31.1 of this Act or as otherwise provided by this
25 Act. The specific prohibitions in this subsection do not limit
26 the power of the Board to establish regulations or standards

1 applicable to sanitary landfills.

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

5 (1) litter;

6 (2) scavenging;

7 (3) open burning;

8 (4) deposition of waste in standing or flowing waters;

9 (5) proliferation of disease vectors;

10 (6) standing or flowing liquid discharge from the dump
11 site;

12 (7) deposition of:

13 (i) general construction or demolition debris as
14 defined in Section 3.160(a) of this Act; or

15 (ii) clean construction or demolition debris as
16 defined in Section 3.160(b) of this Act.

17 The prohibitions specified in this subsection (p) shall be
18 enforceable by the Agency either by administrative citation
19 under Section 31.1 of this Act or as otherwise provided by this
20 Act. The specific prohibitions in this subsection do not limit
21 the power of the Board to establish regulations or standards
22 applicable to open dumping.

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

26 (1) conducting a landscape waste composting operation

1 for landscape wastes generated by such person's own
2 activities which are stored, treated, or disposed of within
3 the site where such wastes are generated; or

4 (1.5) conducting a landscape waste composting
5 operation that (i) has no more than 25 cubic yards of
6 landscape waste, composting additives, composting
7 material, or end-product compost on-site at any one time
8 and (ii) is not engaging in commercial activity; or

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

11 (2.5) operating a landscape waste composting facility
12 at a site having 10 or more occupied non-farm residences
13 within 1/2 mile of its boundaries, if the facility meets
14 all of the following criteria:

15 (A) the composting facility is operated by the
16 farmer on property on which the composting material is
17 utilized, and the composting facility constitutes no
18 more than 2% of the site's total acreage;

19 (A-5) any composting additives that the composting
20 facility accepts and uses at the facility are necessary
21 to provide proper conditions for composting and do not
22 exceed 10% of the total composting material at the
23 facility at any one time;

24 (B) the property on which the composting facility
25 is located, and any associated property on which the
26 compost is used, is principally and diligently devoted

1 to the production of agricultural crops and is not
2 owned, leased, or otherwise controlled by any waste
3 hauler or generator of nonagricultural compost
4 materials, and the operator of the composting facility
5 is not an employee, partner, shareholder, or in any way
6 connected with or controlled by any such waste hauler
7 or generator;

8 (C) all compost generated by the composting
9 facility is applied at agronomic rates and used as
10 mulch, fertilizer, or soil conditioner on land
11 actually farmed by the person operating the composting
12 facility, and the finished compost is not stored at the
13 composting site for a period longer than 18 months
14 prior to its application as mulch, fertilizer, or soil
15 conditioner;

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

18 (E) the owner or operator, by January 1, 2014 (or
19 the January 1 following commencement of operation,
20 whichever is later) and January 1 of each year
21 thereafter, registers the site with the Agency, (ii)
22 reports to the Agency on the volume of composting
23 material received and used at the site; (iii) certifies
24 to the Agency that the site complies with the
25 requirements set forth in subparagraphs (A), (A-5),
26 (B), (C), and (D) of this paragraph (2.5); and (iv)

1 certifies to the Agency that all composting material
2 was placed more than 200 feet from the nearest potable
3 water supply well, was placed outside the boundary of
4 the 10-year floodplain or on a part of the site that is
5 floodproofed, was placed at least 1/4 mile from the
6 nearest residence (other than a residence located on
7 the same property as the facility) or a lesser distance
8 from the nearest residence (other than a residence
9 located on the same property as the facility) if the
10 municipality in which the facility is located has by
11 ordinance approved a lesser distance than 1/4 mile, and
12 was placed more than 5 feet above the water table; any
13 ordinance approving a residential setback of less than
14 1/4 mile that is used to meet the requirements of this
15 subparagraph (E) of paragraph (2.5) of this subsection
16 must specifically reference this paragraph; or

17 (3) operating a landscape waste composting facility on
18 a farm, if the facility meets all of the following
19 criteria:

20 (A) the composting facility is operated by the
21 farmer on property on which the composting material is
22 utilized, and the composting facility constitutes no
23 more than 2% of the property's total acreage, except
24 that the Board may allow a higher percentage for
25 individual sites where the owner or operator has
26 demonstrated to the Board that the site's soil

1 characteristics or crop needs require a higher rate;

2 (A-1) the composting facility accepts from other
3 agricultural operations for composting with landscape
4 waste no materials other than uncontaminated and
5 source-separated (i) crop residue and other
6 agricultural plant residue generated from the
7 production and harvesting of crops and other customary
8 farm practices, including, but not limited to, stalks,
9 leaves, seed pods, husks, bagasse, and roots and (ii)
10 plant-derived animal bedding, such as straw or
11 sawdust, that is free of manure and was not made from
12 painted or treated wood;

13 (A-2) any composting additives that the composting
14 facility accepts and uses at the facility are necessary
15 to provide proper conditions for composting and do not
16 exceed 10% of the total composting material at the
17 facility at any one time;

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

1 or generator;

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

10 (D) the owner or operator, by January 1 of each
11 year, (i) registers the site with the Agency, (ii)
12 reports to the Agency on the volume of composting
13 material received and used at the site, (iii) certifies
14 to the Agency that the site complies with the
15 requirements set forth in subparagraphs (A), (A-1),
16 (A-2), (B), and (C) of this paragraph (q) (3), and (iv)
17 certifies to the Agency that all composting material:

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

20 (II) was placed outside the boundary of the
21 10-year floodplain or on a part of the site that is
22 floodproofed;

23 (III) was placed either (aa) at least 1/4 mile
24 from the nearest residence (other than a residence
25 located on the same property as the facility) and
26 there are not more than 10 occupied non-farm

1 residences within 1/2 mile of the boundaries of the
2 site on the date of application or (bb) a lesser
3 distance from the nearest residence (other than a
4 residence located on the same property as the
5 facility) provided that the municipality or county
6 in which the facility is located has by ordinance
7 approved a lesser distance than 1/4 mile and there
8 are not more than 10 occupied non-farm residences
9 within 1/2 mile of the boundaries of the site on
10 the date of application; and

11 (IV) was placed more than 5 feet above the
12 water table.

13 Any ordinance approving a residential setback of
14 less than 1/4 mile that is used to meet the
15 requirements of this subparagraph (D) must
16 specifically reference this subparagraph.

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

23 (r) Cause or allow the storage or disposal of coal
24 combustion waste unless:

25 (1) such waste is stored or disposed of at a site or
26 facility for which a permit has been obtained or is not

1 otherwise required under subsection (d) of this Section; or

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

6 (3) such waste is stored or disposed of at a site or
7 facility which is operating under NPDES and Subtitle D
8 permits issued by the Agency pursuant to regulations
9 adopted by the Board for mine-related water pollution and
10 permits issued pursuant to the Federal Surface Mining
11 Control and Reclamation Act of 1977 (P.L. 95-87) or the
12 rules and regulations thereunder or any law or rule or
13 regulation adopted by the State of Illinois pursuant
14 thereto, and the owner or operator of the facility agrees
15 to accept the waste; and either

16 (i) such waste is stored or disposed of in
17 accordance with requirements applicable to refuse
18 disposal under regulations adopted by the Board for
19 mine-related water pollution and pursuant to NPDES and
20 Subtitle D permits issued by the Agency under such
21 regulations; or

22 (ii) the owner or operator of the facility
23 demonstrates all of the following to the Agency, and
24 the facility is operated in accordance with the
25 demonstration as approved by the Agency: (1) the
26 disposal area will be covered in a manner that will

1 support continuous vegetation, (2) the facility will
2 be adequately protected from wind and water erosion,
3 (3) the pH will be maintained so as to prevent
4 excessive leaching of metal ions, and (4) adequate
5 containment or other measures will be provided to
6 protect surface water and groundwater from
7 contamination at levels prohibited by this Act, the
8 Illinois Groundwater Protection Act, or regulations
9 adopted pursuant thereto.

10 Notwithstanding any other provision of this Title, the
11 disposal of coal combustion waste pursuant to item (2) or (3)
12 of this subdivision (r) shall be exempt from the other
13 provisions of this Title V, and notwithstanding the provisions
14 of Title X of this Act, the Agency is authorized to grant
15 experimental permits which include provision for the disposal
16 of wastes from the combustion of coal and other materials
17 pursuant to items (2) and (3) of this subdivision (r).

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

22 (t) Cause or allow a lateral expansion of a municipal solid
23 waste landfill unit on or after October 9, 1993, without a
24 permit modification, granted by the Agency, that authorizes the
25 lateral expansion.

26 (u) Conduct any vegetable by-product treatment, storage,

1 disposal or transportation operation in violation of any
2 regulation, standards or permit requirements adopted by the
3 Board under this Act. However, no permit shall be required
4 under this Title V for the land application of vegetable
5 by-products conducted pursuant to Agency permit issued under
6 Title III of this Act to the generator of the vegetable
7 by-products. In addition, vegetable by-products may be
8 transported in this State without a special waste hauling
9 permit, and without the preparation and carrying of a manifest.

10 (v) (Blank).

11 (w) Conduct any generation, transportation, or recycling
12 of construction or demolition debris, clean or general, or
13 uncontaminated soil generated during construction, remodeling,
14 repair, and demolition of utilities, structures, and roads that
15 is not commingled with any waste, without the maintenance of
16 documentation identifying the hauler, generator, place of
17 origin of the debris or soil, the weight or volume of the
18 debris or soil, and the location, owner, and operator of the
19 facility where the debris or soil was transferred, disposed,
20 recycled, or treated. This documentation must be maintained by
21 the generator, transporter, or recycler for 3 years. This
22 subsection (w) shall not apply to (1) a permitted pollution
23 control facility that transfers or accepts construction or
24 demolition debris, clean or general, or uncontaminated soil for
25 final disposal, recycling, or treatment, (2) a public utility
26 (as that term is defined in the Public Utilities Act) or a

1 municipal utility, (3) the Illinois Department of
2 Transportation, or (4) a municipality or a county highway
3 department, with the exception of any municipality or county
4 highway department located within a county having a population
5 of over 3,000,000 inhabitants or located in a county that is
6 contiguous to a county having a population of over 3,000,000
7 inhabitants; but it shall apply to an entity that contracts
8 with a public utility, a municipal utility, the Illinois
9 Department of Transportation, or a municipality or a county
10 highway department. The terms "generation" and "recycling" as
11 used in this subsection do not apply to clean construction or
12 demolition debris when (i) used as fill material below grade
13 outside of a setback zone if covered by sufficient
14 uncontaminated soil to support vegetation within 30 days of the
15 completion of filling or if covered by a road or structure,
16 (ii) solely broken concrete without protruding metal bars is
17 used for erosion control, or (iii) milled asphalt or crushed
18 concrete is used as aggregate in construction of the shoulder
19 of a roadway. The terms "generation" and "recycling", as used
20 in this subsection, do not apply to uncontaminated soil that is
21 not commingled with any waste when (i) used as fill material
22 below grade or contoured to grade, or (ii) used at the site of
23 generation.

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

1 Sec. 22.59. CCR surface impoundments.

2 (a) The General Assembly finds that:

3 (1) the State of Illinois has a long-standing policy to
4 restore, protect, and enhance the environment, including
5 the purity of the air, land, and waters, including
6 groundwaters, of this State;

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

9 (3) CCR generated by the electric generating industry
10 has caused groundwater contamination and other forms of
11 pollution at active and inactive plants throughout this
12 State;

13 (4) environmental laws should be supplemented to
14 ensure consistent, responsible regulation of all existing
15 CCR surface impoundments; and

16 (5) meaningful participation of State residents,
17 especially vulnerable populations who may be affected by
18 regulatory actions, is critical to ensure that
19 environmental justice considerations are incorporated in
20 the development of, decision-making related to, and
21 implementation of environmental laws and rulemaking that
22 protects and improves the well-being of communities in this
23 State that bear disproportionate burdens imposed by
24 environmental pollution.

25 Therefore, the purpose of this Section is to promote a
26 healthful environment, including clean water, air, and land,

1 meaningful public involvement, and the responsible disposal
2 and storage of coal combustion residuals, so as to protect
3 public health and to prevent pollution of the environment of
4 this State.

5 The provisions of this Section shall be liberally construed
6 to carry out the purposes of this Section.

7 (b) No person shall:

8 (1) cause or allow the discharge of any contaminants
9 from a CCR surface impoundment into the environment so as
10 to cause a violation of this Section or any regulations or
11 standards adopted by the Board under this Section, either
12 alone or in combination with contaminants from other
13 sources;

14 (2) construct, install, modify, operate, or close any
15 CCR surface impoundment without a permit granted by the
16 Agency, or so as to violate any conditions imposed by such
17 permit, any provision of this Section or any regulations or
18 standards adopted by the Board under this Section; or

19 (3) cause or allow the discharge, deposit, injection,
20 dumping, spilling, leaking, or placing of any CCR upon the
21 land in a place and manner so as to cause or tend to cause a
22 violation this Section or any regulations or standards
23 adopted by the Board under this Section.

24 (c) For purposes of this Section, a permit issued by the
25 Administrator of the United States Environmental Protection
26 Agency under Section 4005 of the federal Resource Conservation

1 and Recovery Act, shall be deemed to be a permit under this
2 Section and subsection (y) of Section 39.

3 (d) Before commencing closure of a CCR surface impoundment,
4 in accordance with Board rules, the owner of a CCR surface
5 impoundment must submit to the Agency for approval a closure
6 alternatives analysis that analyzes all closure methods being
7 considered and that otherwise satisfies all closure
8 requirements adopted by the Board under this Act. Complete
9 removal of CCR, as specified by the Board's rules, from the CCR
10 surface impoundment must be considered and analyzed. Section
11 3.405 does not apply to the Board's rules specifying complete
12 removal of CCR. The selected closure method must ensure
13 compliance with regulations adopted by the Board pursuant to
14 this Section.

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

21 (f) Except for the State, its agencies and institutions, a
22 unit of local government, or not-for-profit electric
23 cooperative as defined in Section 3.4 of the Electric Supplier
24 Act, any person who owns or operates a CCR surface impoundment
25 in this State shall post with the Agency a performance bond or
26 other security for the purpose of: (i) ensuring closure of the

1 CCR surface impoundment and post-closure care in accordance
2 with this Act and its rules; and (ii) insuring remediation of
3 releases from the CCR surface impoundment. The only acceptable
4 forms of financial assurance are, either individually or in
5 combination, the following: a trust fund; a surety bond
6 guaranteeing payment; a surety bond guaranteeing performance;
7 an irrevocable letter of credit; or a combination of insurance
8 with a previously listed acceptable form of financial assurance
9 that must ensure insurance policy premiums are paid for the
10 term of the insurance policy.

11 (1) The cost estimate for the post-closure care of a
12 CCR surface impoundment shall be calculated using a 30-year
13 post-closure care period or such longer period as may be
14 approved by the Agency under Board or federal rules.

15 (2) The Agency is authorized to enter into such
16 contracts and agreements as it may deem necessary to carry
17 out the purposes of this Section. Neither the State, nor
18 the Director, nor any State employee shall be liable for
19 any damages or injuries arising out of or resulting from
20 any action taken under this Section.

21 (3) The Agency shall have the authority to approve or
22 disapprove any performance bond or other security posted
23 under this subsection. Any person whose performance bond or
24 other security is disapproved by the Agency may contest the
25 disapproval as a permit denial appeal pursuant to Section
26 40.

1 (4) Insurance as a financial assurance shall be allowed
2 by the Agency if the owner or operator provides the Agency
3 with a copy of a signed national or local labor agreement
4 with a bona fide labor organization representing multiple
5 construction trades with geographic jurisdiction over the
6 area in which the CCR surface impoundment is located and
7 that pertain to the construction related to a CCR surface
8 impoundment, the closure of the CCR surface impoundment,
9 and any construction, maintenance, or remediation of the
10 CCR surface impoundment required during post-closure care.
11 The insurance must also meet the following criteria:

12 (A) The face value amount of policy shall be at
13 least equal to:

14 (i) the cost estimate for closure, if used as
15 financial assurance for closure;

16 (ii) the cost estimate for post-closure, if
17 used as financial assurance for post-closure; and

18 (iii) the cost estimate for remediation of
19 releases, if used as financial assurance for
20 remediation of releases.

21 (B) The face value of the policy shall be updated
22 within 90 days after a revised cost estimate and cost
23 estimates shall be updated at least annually and upon
24 request by the Agency.

25 (C) The policy shall guarantee that:

26 (i) funds will be available without delay to

1 close, if used as financial assurance for closure;

2 (ii) funds will be available without delay to
3 perform any required post-closure care, if used as
4 financial assurance for post-closure; and

5 (iii) funds will be available without delay
6 for remediation of releases, if used as financial
7 assurance for remediation of releases.

8 (D) For insurance used as financial assurance for
9 closure, the policy shall guarantee that once closure
10 begins the insurer will be responsible for payout of
11 funds up to an amount equal to the face amount of the
12 policy, upon the direction of the Agency, to the party
13 or parties the Agency specifies.

14 (E) The policy must not be terminated, canceled, or
15 suspended for any reason other than failure to pay a
16 premium.

17 (F) If nonpayment of premiums risks terminating,
18 cancelling, or suspending the policy, the insurer
19 shall provide notice by certified mail to the owner or
20 operator and the Agency, and termination,
21 cancellation, or suspension shall not occur within 120
22 days after the date of receipt of the notice by the
23 owner or operator and the Agency, as evidenced by
24 return receipts.

25 (G) If nonpayment of premiums risk terminating,
26 cancelling, or suspending the policy, and after notice

1 has been provided under subparagraph (F), within 120
2 days of receiving that notice the owner or operator
3 shall acquire an acceptable substitute form of
4 financial assurance at least equal to the face value of
5 the policy.

6 (H) The policy shall automatically renew and
7 automatic renewal of the policy shall provide the
8 insured with the option of renewal at face value of the
9 expiring policy.

10 (I) The insurer shall be licensed to conduct
11 business in Illinois and have at least an "A-" rating,
12 or its equivalent, from a recognized rating agency.

13 (J) The policy shall contain a provision allowing
14 assignment of the policy to a successor owner or
15 operator.

16 Failure to pay the premium, without substitution of
17 alternative financial assurance at least equal to face
18 value of policy within the time period specified in
19 subparagraph (F), shall constitute a violation of this Act.

20 (g) The Board shall adopt rules establishing construction
21 permit requirements, operating permit requirements, design
22 standards, reporting, financial assurance, and closure and
23 post-closure care requirements for CCR surface impoundments.
24 Not later than 8 months after the effective date of this
25 amendatory Act of the 101st General Assembly the Agency shall
26 propose, and not later than one year after receipt of the

1 Agency's proposal the Board shall adopt, rules under this
2 Section. The rules must, at a minimum:

3 (1) be at least as protective and comprehensive as the
4 federal regulations or amendments thereto promulgated by
5 the Administrator of the United States Environmental
6 Protection Agency in Subpart D of 40 CFR 257 governing CCR
7 surface impoundments;

8 (2) specify the minimum contents of CCR surface
9 impoundment construction and operating permit
10 applications, including the closure alternatives analysis
11 required under subsection (d);

12 (3) specify which types of permits include
13 requirements for closure, post-closure, remediation and
14 all other requirements applicable to CCR surface
15 impoundments;

16 (4) specify when permit applications for existing CCR
17 surface impoundments must be submitted, taking into
18 consideration whether the CCR surface impoundment must
19 close under the RCRA;

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

22 (6) specify meaningful public participation procedures
23 for the issuance of CCR surface impoundment construction
24 and operating permits, including, but not limited to,
25 public notice of the submission of permit applications, an
26 opportunity for the submission of public comments, an

1 opportunity for a public hearing prior to permit issuance,
2 and a summary and response of the comments prepared by the
3 Agency;

4 (7) prescribe the type and amount of the performance
5 bonds or other securities required under subsection (f),
6 and the conditions under which the State is entitled to
7 collect moneys from such performance bonds or other
8 securities;

9 (8) specify requirements of financial assurances under
10 paragraph (4) of subsection (f);

11 (9) govern insurance used for financial assurance to
12 ensure funds are available to pay premiums for the entirety
13 of the term of the insurance policy under paragraph (4) of
14 subsection (f);

15 (10) specify a procedure to identify areas of
16 environmental justice concern in relation to CCR surface
17 impoundments;

18 (11) specify a method to prioritize CCR surface
19 impoundments required to close under RCRA if not otherwise
20 specified by the United States Environmental Protection
21 Agency, so that the CCR surface impoundments with the
22 highest risk to public health and the environment, and
23 areas of environmental justice concern are given first
24 priority;

25 (12) define when complete removal of CCR is achieved
26 and specify the standards for responsible removal of CCR

1 from CCR surface impoundments, including, but not limited
2 to, dust controls and the protection of adjacent surface
3 water and groundwater; and

4 (13) describe the process and standards for
5 identifying a specific alternative source of groundwater
6 pollution when the owner or operator of the CCR surface
7 impoundment believes that groundwater contamination on the
8 site is not from the CCR surface impoundment.

9 (h) Any owner of a CCR surface impoundment that generates
10 CCR and sells or otherwise provides coal combustion byproducts
11 pursuant to Section 3.135 shall, every 12 months, post on its
12 publicly available website a report specifying the volume or
13 weight of CCR, in cubic yards or tons, that it sold or provided
14 during the past 12 months.

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

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

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

24 \$50,000 for each closed CCR surface impoundment;

25 and

26 \$75,000 for each CCR surface impoundment that has

1 not completed closure.

2 (2) Annual fees to the Agency, beginning on July 1,
3 2020, of:

4 \$25,000 for each CCR surface impoundment that has
5 not completed closure; and

6 \$15,000 for each CCR surface impoundment that has
7 completed closure, but has not completed post-closure
8 care.

9 (k) All fees collected by the Agency under subsection (j)
10 shall be deposited into the Environmental Protection Permit and
11 Inspection Fund.

12 (l) The Coal Combustion Residual Surface Impoundment
13 Financial Assurance Fund is created as a special fund in the
14 State treasury. Any moneys forfeited to the State of Illinois
15 from any performance bond or other security required under this
16 Section shall be placed in the Coal Combustion Residual Surface
17 Impoundment Financial Assurance Fund and shall, upon approval
18 by the Governor and the Director, be used by the Agency for the
19 purposes for which such performance bond or other security was
20 issued. The Coal Combustion Residual Surface Impoundment
21 Financial Assurance Fund is not subject to the provisions of
22 subsection (c) of Section 5 of the State Finance Act.

23 (m) The provisions of this Section shall apply, without
24 limitation, to all existing CCR surface impoundments and any
25 CCR surface impoundments constructed after the effective date
26 of this amendatory Act of the 101st General Assembly, except to

1 the extent prohibited by the Illinois or United States
2 Constitutions.

3 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

4 Sec. 39. Issuance of permits; procedures.

5 (a) When the Board has by regulation required a permit for
6 the construction, installation, or operation of any type of
7 facility, equipment, vehicle, vessel, or aircraft, the
8 applicant shall apply to the Agency for such permit and it
9 shall be the duty of the Agency to issue such a permit upon
10 proof by the applicant that the facility, equipment, vehicle,
11 vessel, or aircraft will not cause a violation of this Act or
12 of regulations hereunder. The Agency shall adopt such
13 procedures as are necessary to carry out its duties under this
14 Section. In making its determinations on permit applications
15 under this Section the Agency may consider prior adjudications
16 of noncompliance with this Act by the applicant that involved a
17 release of a contaminant into the environment. In granting
18 permits, the Agency may impose reasonable conditions
19 specifically related to the applicant's past compliance
20 history with this Act as necessary to correct, detect, or
21 prevent noncompliance. The Agency may impose such other
22 conditions as may be necessary to accomplish the purposes of
23 this Act, and as are not inconsistent with the regulations
24 promulgated by the Board hereunder. Except as otherwise
25 provided in this Act, a bond or other security shall not be

1 required as a condition for the issuance of a permit. If the
2 Agency denies any permit under this Section, the Agency shall
3 transmit to the applicant within the time limitations of this
4 Section specific, detailed statements as to the reasons the
5 permit application was denied. Such statements shall include,
6 but not be limited to the following:

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

9 (ii) the provision of the regulations, promulgated
10 under this Act, which may be violated if the permit were
11 granted;

12 (iii) the specific type of information, if any, which
13 the Agency deems the applicant did not provide the Agency;
14 and

15 (iv) a statement of specific reasons why the Act and
16 the regulations might not be met if the permit were
17 granted.

18 If there is no final action by the Agency within 90 days
19 after the filing of the application for permit, the applicant
20 may deem the permit issued; except that this time period shall
21 be extended to 180 days when (1) notice and opportunity for
22 public hearing are required by State or federal law or
23 regulation, (2) the application which was filed is for any
24 permit to develop a landfill subject to issuance pursuant to
25 this subsection, or (3) the application that was filed is for a
26 MSWLF unit required to issue public notice under subsection (p)

1 of Section 39. The 90-day and 180-day time periods for the
2 Agency to take final action do not apply to NPDES permit
3 applications under subsection (b) of this Section, to RCRA
4 permit applications under subsection (d) of this Section, ~~or~~ to
5 UIC permit applications under subsection (e) of this Section ,
6 or to CCR surface impoundment applications under subsection (y)
7 of this Section.

8 The Agency shall publish notice of all final permit
9 determinations for development permits for MSWLF units and for
10 significant permit modifications for lateral expansions for
11 existing MSWLF units one time in a newspaper of general
12 circulation in the county in which the unit is or is proposed
13 to be located.

14 After January 1, 1994 and until July 1, 1998, operating
15 permits issued under this Section by the Agency for sources of
16 air pollution permitted to emit less than 25 tons per year of
17 any combination of regulated air pollutants, as defined in
18 Section 39.5 of this Act, shall be required to be renewed only
19 upon written request by the Agency consistent with applicable
20 provisions of this Act and regulations promulgated hereunder.
21 Such operating permits shall expire 180 days after the date of
22 such a request. The Board shall revise its regulations for the
23 existing State air pollution operating permit program
24 consistent with this provision by January 1, 1994.

25 After June 30, 1998, operating permits issued under this
26 Section by the Agency for sources of air pollution that are not

1 subject to Section 39.5 of this Act and are not required to
2 have a federally enforceable State operating permit shall be
3 required to be renewed only upon written request by the Agency
4 consistent with applicable provisions of this Act and its
5 rules. Such operating permits shall expire 180 days after the
6 date of such a request. Before July 1, 1998, the Board shall
7 revise its rules for the existing State air pollution operating
8 permit program consistent with this paragraph and shall adopt
9 rules that require a source to demonstrate that it qualifies
10 for a permit under this paragraph.

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

16 All NPDES permits shall contain those terms and conditions,
17 including but not limited to schedules of compliance, which may
18 be required to accomplish the purposes and provisions of this
19 Act.

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

26 The Agency may include, among such conditions, effluent

1 limitations and other requirements established under this Act,
2 Board regulations, the Federal Water Pollution Control Act, as
3 now or hereafter amended, and regulations pursuant thereto, and
4 schedules for achieving compliance therewith at the earliest
5 reasonable date.

6 The Agency shall adopt filing requirements and procedures
7 which are necessary and appropriate for the issuance of NPDES
8 permits, and which are consistent with the Act or regulations
9 adopted by the Board, and with the Federal Water Pollution
10 Control Act, as now or hereafter amended, and regulations
11 pursuant thereto.

12 The Agency, subject to any conditions which may be
13 prescribed by Board regulations, may issue NPDES permits to
14 allow discharges beyond deadlines established by this Act or by
15 regulations of the Board without the requirement of a variance,
16 subject to the Federal Water Pollution Control Act, as now or
17 hereafter amended, and regulations pursuant thereto.

18 (c) Except for those facilities owned or operated by
19 sanitary districts organized under the Metropolitan Water
20 Reclamation District Act, no permit for the development or
21 construction of a new pollution control facility may be granted
22 by the Agency unless the applicant submits proof to the Agency
23 that the location of the facility has been approved by the
24 County Board of the county if in an unincorporated area, or the
25 governing body of the municipality when in an incorporated
26 area, in which the facility is to be located in accordance with

1 Section 39.2 of this Act. For purposes of this subsection (c),
2 and for purposes of Section 39.2 of this Act, the appropriate
3 county board or governing body of the municipality shall be the
4 county board of the county or the governing body of the
5 municipality in which the facility is to be located as of the
6 date when the application for siting approval is filed.

7 In the event that siting approval granted pursuant to
8 Section 39.2 has been transferred to a subsequent owner or
9 operator, that subsequent owner or operator may apply to the
10 Agency for, and the Agency may grant, a development or
11 construction permit for the facility for which local siting
12 approval was granted. Upon application to the Agency for a
13 development or construction permit by that subsequent owner or
14 operator, the permit applicant shall cause written notice of
15 the permit application to be served upon the appropriate county
16 board or governing body of the municipality that granted siting
17 approval for that facility and upon any party to the siting
18 proceeding pursuant to which siting approval was granted. In
19 that event, the Agency shall conduct an evaluation of the
20 subsequent owner or operator's prior experience in waste
21 management operations in the manner conducted under subsection
22 (i) of Section 39 of this Act.

23 Beginning August 20, 1993, if the pollution control
24 facility consists of a hazardous or solid waste disposal
25 facility for which the proposed site is located in an
26 unincorporated area of a county with a population of less than

1 100,000 and includes all or a portion of a parcel of land that
2 was, on April 1, 1993, adjacent to a municipality having a
3 population of less than 5,000, then the local siting review
4 required under this subsection (c) in conjunction with any
5 permit applied for after that date shall be performed by the
6 governing body of that adjacent municipality rather than the
7 county board of the county in which the proposed site is
8 located; and for the purposes of that local siting review, any
9 references in this Act to the county board shall be deemed to
10 mean the governing body of that adjacent municipality;
11 provided, however, that the provisions of this paragraph shall
12 not apply to any proposed site which was, on April 1, 1993,
13 owned in whole or in part by another municipality.

14 In the case of a pollution control facility for which a
15 development permit was issued before November 12, 1981, if an
16 operating permit has not been issued by the Agency prior to
17 August 31, 1989 for any portion of the facility, then the
18 Agency may not issue or renew any development permit nor issue
19 an original operating permit for any portion of such facility
20 unless the applicant has submitted proof to the Agency that the
21 location of the facility has been approved by the appropriate
22 county board or municipal governing body pursuant to Section
23 39.2 of this Act.

24 After January 1, 1994, if a solid waste disposal facility,
25 any portion for which an operating permit has been issued by
26 the Agency, has not accepted waste disposal for 5 or more

1 consecutive calendars years, before that facility may accept
2 any new or additional waste for disposal, the owner and
3 operator must obtain a new operating permit under this Act for
4 that facility unless the owner and operator have applied to the
5 Agency for a permit authorizing the temporary suspension of
6 waste acceptance. The Agency may not issue a new operation
7 permit under this Act for the facility unless the applicant has
8 submitted proof to the Agency that the location of the facility
9 has been approved or re-approved by the appropriate county
10 board or municipal governing body under Section 39.2 of this
11 Act after the facility ceased accepting waste.

12 Except for those facilities owned or operated by sanitary
13 districts organized under the Metropolitan Water Reclamation
14 District Act, and except for new pollution control facilities
15 governed by Section 39.2, and except for fossil fuel mining
16 facilities, the granting of a permit under this Act shall not
17 relieve the applicant from meeting and securing all necessary
18 zoning approvals from the unit of government having zoning
19 jurisdiction over the proposed facility.

20 Before beginning construction on any new sewage treatment
21 plant or sludge drying site to be owned or operated by a
22 sanitary district organized under the Metropolitan Water
23 Reclamation District Act for which a new permit (rather than
24 the renewal or amendment of an existing permit) is required,
25 such sanitary district shall hold a public hearing within the
26 municipality within which the proposed facility is to be

1 located, or within the nearest community if the proposed
2 facility is to be located within an unincorporated area, at
3 which information concerning the proposed facility shall be
4 made available to the public, and members of the public shall
5 be given the opportunity to express their views concerning the
6 proposed facility.

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

10 (1) the municipal waste transfer station was in
11 existence on or before January 1, 1979 and was in
12 continuous operation from January 1, 1979 to January 1,
13 1993;

14 (2) the operator submitted a permit application to the
15 Agency to develop and operate the municipal waste transfer
16 station during April of 1994;

17 (3) the operator can demonstrate that the county board
18 of the county, if the municipal waste transfer station is
19 in an unincorporated area, or the governing body of the
20 municipality, if the station is in an incorporated area,
21 does not object to resumption of the operation of the
22 station; and

23 (4) the site has local zoning approval.

24 (d) The Agency may issue RCRA permits exclusively under
25 this subsection to persons owning or operating a facility for
26 the treatment, storage, or disposal of hazardous waste as

1 defined under this Act. Subsection (y) of this Section, rather
2 than this subsection (d), shall apply to permits issued for CCR
3 surface impoundments.

4 All RCRA 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 Resource Conservation and Recovery Act of 1976
10 (P.L. 94-580), as amended, and regulations pursuant thereto,
11 and may include schedules for achieving compliance therewith as
12 soon as possible. The Agency shall require that a performance
13 bond or other security be provided as a condition for the
14 issuance of a RCRA permit.

15 In the case of a permit to operate a hazardous waste or PCB
16 incinerator as defined in subsection (k) of Section 44, the
17 Agency shall require, as a condition of the permit, that the
18 operator of the facility perform such analyses of the waste to
19 be incinerated as may be necessary and appropriate to ensure
20 the safe operation of the incinerator.

21 The Agency shall adopt filing requirements and procedures
22 which are necessary and appropriate for the issuance of RCRA
23 permits, and which are consistent with the Act or regulations
24 adopted by the Board, and with the Resource Conservation and
25 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
26 pursuant thereto.

1 The applicant shall make available to the public for
2 inspection all documents submitted by the applicant to the
3 Agency in furtherance of an application, with the exception of
4 trade secrets, at the office of the county board or governing
5 body of the municipality. Such documents may be copied upon
6 payment of the actual cost of reproduction during regular
7 business hours of the local office. The Agency shall issue a
8 written statement concurrent with its grant or denial of the
9 permit explaining the basis for its decision.

10 (e) The Agency may issue UIC permits exclusively under this
11 subsection to persons owning or operating a facility for the
12 underground injection of contaminants as defined under this
13 Act.

14 All UIC permits shall contain those terms and conditions,
15 including but not limited to schedules of compliance, which may
16 be required to accomplish the purposes and provisions of this
17 Act. The Agency may include among such conditions standards and
18 other requirements established under this Act, Board
19 regulations, the Safe Drinking Water Act (P.L. 93-523), as
20 amended, and regulations pursuant thereto, and may include
21 schedules for achieving compliance therewith. The Agency shall
22 require that a performance bond or other security be provided
23 as a condition for the issuance of a UIC permit.

24 The Agency shall adopt filing requirements and procedures
25 which are necessary and appropriate for the issuance of UIC
26 permits, and which are consistent with the Act or regulations

1 adopted by the Board, and with the Safe Drinking Water Act
2 (P.L. 93-523), as amended, and regulations pursuant thereto.

3 The applicant shall make available to the public for
4 inspection, all documents submitted by the applicant to the
5 Agency in furtherance of an application, with the exception of
6 trade secrets, at the office of the county board or governing
7 body of the municipality. Such documents may be copied upon
8 payment of the actual cost of reproduction during regular
9 business hours of the local office. The Agency shall issue a
10 written statement concurrent with its grant or denial of the
11 permit explaining the basis for its decision.

12 (f) In making any determination pursuant to Section 9.1 of
13 this Act:

14 (1) The Agency shall have authority to make the
15 determination of any question required to be determined by
16 the Clean Air Act, as now or hereafter amended, this Act,
17 or the regulations of the Board, including the
18 determination of the Lowest Achievable Emission Rate,
19 Maximum Achievable Control Technology, or Best Available
20 Control Technology, consistent with the Board's
21 regulations, if any.

22 (2) The Agency shall adopt requirements as necessary to
23 implement public participation procedures, including, but
24 not limited to, public notice, comment, and an opportunity
25 for hearing, which must accompany the processing of
26 applications for PSD permits. The Agency shall briefly

1 describe and respond to all significant comments on the
2 draft permit raised during the public comment period or
3 during any hearing. The Agency may group related comments
4 together and provide one unified response for each issue
5 raised.

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

10 (4) The Agency shall, after conferring with the
11 applicant, give written notice to the applicant of its
12 proposed decision on the application including the terms
13 and conditions of the permit to be issued and the facts,
14 conduct or other basis upon which the Agency will rely to
15 support its proposed action.

16 (g) The Agency shall include as conditions upon all permits
17 issued for hazardous waste disposal sites such restrictions
18 upon the future use of such sites as are reasonably necessary
19 to protect public health and the environment, including
20 permanent prohibition of the use of such sites for purposes
21 which may create an unreasonable risk of injury to human health
22 or to the environment. After administrative and judicial
23 challenges to such restrictions have been exhausted, the Agency
24 shall file such restrictions of record in the Office of the
25 Recorder of the county in which the hazardous waste disposal
26 site is located.

1 (h) A hazardous waste stream may not be deposited in a
2 permitted hazardous waste site unless specific authorization
3 is obtained from the Agency by the generator and disposal site
4 owner and operator for the deposit of that specific hazardous
5 waste stream. The Agency may grant specific authorization for
6 disposal of hazardous waste streams only after the generator
7 has reasonably demonstrated that, considering technological
8 feasibility and economic reasonableness, the hazardous waste
9 cannot be reasonably recycled for reuse, nor incinerated or
10 chemically, physically or biologically treated so as to
11 neutralize the hazardous waste and render it nonhazardous. In
12 granting authorization under this Section, the Agency may
13 impose such conditions as may be necessary to accomplish the
14 purposes of the Act and are consistent with this Act and
15 regulations promulgated by the Board hereunder. If the Agency
16 refuses to grant authorization under this Section, the
17 applicant may appeal as if the Agency refused to grant a
18 permit, pursuant to the provisions of subsection (a) of Section
19 40 of this Act. For purposes of this subsection (h), the term
20 "generator" has the meaning given in Section 3.205 of this Act,
21 unless: (1) the hazardous waste is treated, incinerated, or
22 partially recycled for reuse prior to disposal, in which case
23 the last person who treats, incinerates, or partially recycles
24 the hazardous waste prior to disposal is the generator; or (2)
25 the hazardous waste is from a response action, in which case
26 the person performing the response action is the generator.

1 This subsection (h) does not apply to any hazardous waste that
2 is restricted from land disposal under 35 Ill. Adm. Code 728.

3 (i) Before issuing any RCRA permit, any permit for a waste
4 storage site, sanitary landfill, waste disposal site, waste
5 transfer station, waste treatment facility, waste incinerator,
6 or any waste-transportation operation, any permit or interim
7 authorization for a clean construction or demolition debris
8 fill operation, or any permit required under subsection (d-5)
9 of Section 55, the Agency shall conduct an evaluation of the
10 prospective owner's or operator's prior experience in waste
11 management operations, clean construction or demolition debris
12 fill operations, and tire storage site management. The Agency
13 may deny such a permit, or deny or revoke interim
14 authorization, if the prospective owner or operator or any
15 employee or officer of the prospective owner or operator has a
16 history of:

17 (1) repeated violations of federal, State, or local
18 laws, regulations, standards, or ordinances in the
19 operation of waste management facilities or sites, clean
20 construction or demolition debris fill operation
21 facilities or sites, or tire storage sites; or

22 (2) conviction in this or another State of any crime
23 which is a felony under the laws of this State, or
24 conviction of a felony in a federal court; or conviction in
25 this or another state or federal court of any of the
26 following crimes: forgery, official misconduct, bribery,

1 perjury, or knowingly submitting false information under
2 any environmental law, regulation, or permit term or
3 condition; or

4 (3) proof of gross carelessness or incompetence in
5 handling, storing, processing, transporting or disposing
6 of waste, clean construction or demolition debris, or used
7 or waste tires, or proof of gross carelessness or
8 incompetence in using clean construction or demolition
9 debris as fill.

10 (i-5) Before issuing any permit or approving any interim
11 authorization for a clean construction or demolition debris
12 fill operation in which any ownership interest is transferred
13 between January 1, 2005, and the effective date of the
14 prohibition set forth in Section 22.52 of this Act, the Agency
15 shall conduct an evaluation of the operation if any previous
16 activities at the site or facility may have caused or allowed
17 contamination of the site. It shall be the responsibility of
18 the owner or operator seeking the permit or interim
19 authorization to provide to the Agency all of the information
20 necessary for the Agency to conduct its evaluation. The Agency
21 may deny a permit or interim authorization if previous
22 activities at the site may have caused or allowed contamination
23 at the site, unless such contamination is authorized under any
24 permit issued by the Agency.

25 (j) The issuance under this Act of a permit to engage in
26 the surface mining of any resources other than fossil fuels

1 shall not relieve the permittee from its duty to comply with
2 any applicable local law regulating the commencement, location
3 or operation of surface mining facilities.

4 (k) A development permit issued under subsection (a) of
5 Section 39 for any facility or site which is required to have a
6 permit under subsection (d) of Section 21 shall expire at the
7 end of 2 calendar years from the date upon which it was issued,
8 unless within that period the applicant has taken action to
9 develop the facility or the site. In the event that review of
10 the conditions of the development permit is sought pursuant to
11 Section 40 or 41, or permittee is prevented from commencing
12 development of the facility or site by any other litigation
13 beyond the permittee's control, such two-year period shall be
14 deemed to begin on the date upon which such review process or
15 litigation is concluded.

16 (l) No permit shall be issued by the Agency under this Act
17 for construction or operation of any facility or site located
18 within the boundaries of any setback zone established pursuant
19 to this Act, where such construction or operation is
20 prohibited.

21 (m) The Agency may issue permits to persons owning or
22 operating a facility for composting landscape waste. In
23 granting such permits, the Agency may impose such conditions as
24 may be necessary to accomplish the purposes of this Act, and as
25 are not inconsistent with applicable regulations promulgated
26 by the Board. Except as otherwise provided in this Act, a bond

1 or other security shall not be required as a condition for the
2 issuance of a permit. If the Agency denies any permit pursuant
3 to this subsection, the Agency shall transmit to the applicant
4 within the time limitations of this subsection specific,
5 detailed statements as to the reasons the permit application
6 was denied. Such statements shall include but not be limited to
7 the following:

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

10 (2) the specific regulations promulgated pursuant to
11 this Act that may be violated if the permit were granted;

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

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

17 If no final action is taken by the Agency within 90 days
18 after the filing of the application for permit, the applicant
19 may deem the permit issued. Any applicant for a permit may
20 waive the 90-day limitation by filing a written statement with
21 the Agency.

22 The Agency shall issue permits for such facilities upon
23 receipt of an application that includes a legal description of
24 the site, a topographic map of the site drawn to the scale of
25 200 feet to the inch or larger, a description of the operation,
26 including the area served, an estimate of the volume of

1 materials to be processed, and documentation that:

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

4 (2) the facility is located outside the boundary of the
5 10-year floodplain or the site will be floodproofed;

6 (3) the facility is located so as to minimize
7 incompatibility with the character of the surrounding
8 area, including at least a 200 foot setback from any
9 residence, and in the case of a facility that is developed
10 or the permitted composting area of which is expanded after
11 November 17, 1991, the composting area is located at least
12 1/8 mile from the nearest residence (other than a residence
13 located on the same property as the facility);

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

19 (5) the operation of the facility will include
20 appropriate dust and odor control measures, limitations on
21 operating hours, appropriate noise control measures for
22 shredding, chipping and similar equipment, management
23 procedures for composting, containment and disposal of
24 non-compostable wastes, procedures to be used for
25 terminating operations at the site, and recordkeeping
26 sufficient to document the amount of materials received,

1 composted and otherwise disposed of; and

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

4 The Agency shall issue renewable permits of not longer than
5 10 years in duration for the composting of landscape wastes, as
6 defined in Section 3.155 of this Act, based on the above
7 requirements.

8 The operator of any facility permitted under this
9 subsection (m) must submit a written annual statement to the
10 Agency on or before April 1 of each year that includes an
11 estimate of the amount of material, in tons, received for
12 composting.

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

17 (o) (Blank.)

18 (p) (1) Any person submitting an application for a permit
19 for a new MSWLF unit or for a lateral expansion under
20 subsection (t) of Section 21 of this Act for an existing MSWLF
21 unit that has not received and is not subject to local siting
22 approval under Section 39.2 of this Act shall publish notice of
23 the application in a newspaper of general circulation in the
24 county in which the MSWLF unit is or is proposed to be located.
25 The notice must be published at least 15 days before submission
26 of the permit application to the Agency. The notice shall state

1 the name and address of the applicant, the location of the
2 MSWLF unit or proposed MSWLF unit, the nature and size of the
3 MSWLF unit or proposed MSWLF unit, the nature of the activity
4 proposed, the probable life of the proposed activity, the date
5 the permit application will be submitted, and a statement that
6 persons may file written comments with the Agency concerning
7 the permit application within 30 days after the filing of the
8 permit application unless the time period to submit comments is
9 extended by the Agency.

10 When a permit applicant submits information to the Agency
11 to supplement a permit application being reviewed by the
12 Agency, the applicant shall not be required to reissue the
13 notice under this subsection.

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

18 (3) Each applicant for a permit described in part (1) of
19 this subsection shall file a copy of the permit application
20 with the county board or governing body of the municipality in
21 which the MSWLF unit is or is proposed to be located at the
22 same time the application is submitted to the Agency. The
23 permit application filed with the county board or governing
24 body of the municipality shall include all documents submitted
25 to or to be submitted to the Agency, except trade secrets as
26 determined under Section 7.1 of this Act. The permit

1 application and other documents on file with the county board
2 or governing body of the municipality shall be made available
3 for public inspection during regular business hours at the
4 office of the county board or the governing body of the
5 municipality and may be copied upon payment of the actual cost
6 of reproduction.

7 (q) Within 6 months after July 12, 2011 (the effective date
8 of Public Act 97-95), the Agency, in consultation with the
9 regulated community, shall develop a web portal to be posted on
10 its website for the purpose of enhancing review and promoting
11 timely issuance of permits required by this Act. At a minimum,
12 the Agency shall make the following information available on
13 the web portal:

14 (1) Checklists and guidance relating to the completion
15 of permit applications, developed pursuant to subsection
16 (s) of this Section, which may include, but are not limited
17 to, existing instructions for completing the applications
18 and examples of complete applications. As the Agency
19 develops new checklists and develops guidance, it shall
20 supplement the web portal with those materials.

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

26 (3) Within 2 years after July 12, 2011 (the effective

1 date of Public Act 97-95), an online tracking system where
2 an applicant may review the status of its pending
3 application, including the name and contact information of
4 the permit analyst assigned to the application. Until the
5 online tracking system has been developed, the Agency shall
6 post on its website semi-annual permitting efficiency
7 tracking reports that include statistics on the timeframes
8 for Agency action on the following types of permits
9 received after July 12, 2011 (the effective date of Public
10 Act 97-95): air construction permits, new NPDES permits and
11 associated water construction permits, and modifications
12 of major NPDES permits and associated water construction
13 permits. The reports must be posted by February 1 and
14 August 1 each year and shall include:

15 (A) the number of applications received for each
16 type of permit, the number of applications on which the
17 Agency has taken action, and the number of applications
18 still pending; and

19 (B) for those applications where the Agency has not
20 taken action in accordance with the timeframes set
21 forth in this Act, the date the application was
22 received and the reasons for any delays, which may
23 include, but shall not be limited to, (i) the
24 application being inadequate or incomplete, (ii)
25 scientific or technical disagreements with the
26 applicant, USEPA, or other local, state, or federal

1 agencies involved in the permitting approval process,
2 (iii) public opposition to the permit, or (iv) Agency
3 staffing shortages. To the extent practicable, the
4 tracking report shall provide approximate dates when
5 cause for delay was identified by the Agency, when the
6 Agency informed the applicant of the problem leading to
7 the delay, and when the applicant remedied the reason
8 for the delay.

9 (r) Upon the request of the applicant, the Agency shall
10 notify the applicant of the permit analyst assigned to the
11 application upon its receipt.

12 (s) The Agency is authorized to prepare and distribute
13 guidance documents relating to its administration of this
14 Section and procedural rules implementing this Section.
15 Guidance documents prepared under this subsection shall not be
16 considered rules and shall not be subject to the Illinois
17 Administrative Procedure Act. Such guidance shall not be
18 binding on any party.

19 (t) Except as otherwise prohibited by federal law or
20 regulation, any person submitting an application for a permit
21 may include with the application suggested permit language for
22 Agency consideration. The Agency is not obligated to use the
23 suggested language or any portion thereof in its permitting
24 decision. If requested by the permit applicant, the Agency
25 shall meet with the applicant to discuss the suggested
26 language.

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

4 (v) If requested by the permit applicant, the Agency shall
5 provide the permit applicant with a copy of the final permit
6 prior to its issuance.

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

10 (x) If, before the expiration of a State operating permit
11 that is issued pursuant to subsection (a) of this Section and
12 contains federally enforceable conditions limiting the
13 potential to emit of the source to a level below the major
14 source threshold for that source so as to exclude the source
15 from the Clean Air Act Permit Program, the Agency receives a
16 complete application for the renewal of that permit, then all
17 of the terms and conditions of the permit shall remain in
18 effect until final administrative action has been taken on the
19 application for the renewal of the permit.

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

23 All CCR surface impoundment permits shall contain those
24 terms and conditions, including, but not limited to, schedules
25 of compliance, which may be required to accomplish the purposes
26 and provisions of this Act, Board regulations, the Illinois

1 Groundwater Protection Act and regulations pursuant thereto,
2 and the Resource Conservation and Recovery Act and regulations
3 pursuant thereto, and may include schedules for achieving
4 compliance therewith as soon as possible.

5 The Board shall adopt filing requirements and procedures
6 that are necessary and appropriate for the issuance of CCR
7 surface impoundment permits and that are consistent with this
8 Act or regulations adopted by the Board, and with the RCRA, as
9 amended, and regulations pursuant thereto.

10 The applicant shall make available to the public for
11 inspection all documents submitted by the applicant to the
12 Agency in furtherance of an application, with the exception of
13 trade secrets, on its public internet website as well as at the
14 office of the county board or governing body of the
15 municipality where CCR from the CCR surface impoundment will be
16 permanently disposed. Such documents may be copied upon payment
17 of the actual cost of reproduction during regular business
18 hours of the local office.

19 The Agency shall issue a written statement concurrent with
20 its grant or denial of the permit explaining the basis for its
21 decision.

22 (Source: P.A. 98-284, eff. 8-9-13; 99-396, eff. 8-18-15;
23 99-463, eff. 1-1-16; 99-642, eff. 7-28-16.)

24 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

25 Sec. 40. Appeal of permit denial.

1 (a) (1) If the Agency refuses to grant or grants with
2 conditions a permit under Section 39 of this Act, the applicant
3 may, within 35 days after the date on which the Agency served
4 its decision on the applicant, petition for a hearing before
5 the Board to contest the decision of the Agency. However, the
6 35-day period for petitioning for a hearing may be extended for
7 an additional period of time not to exceed 90 days by written
8 notice provided to the Board from the applicant and the Agency
9 within the initial appeal period. The Board shall give 21 days'
10 notice to any person in the county where is located the
11 facility in issue who has requested notice of enforcement
12 proceedings and to each member of the General Assembly in whose
13 legislative district that installation or property is located;
14 and shall publish that 21-day notice in a newspaper of general
15 circulation in that county. The Agency shall appear as
16 respondent in such hearing. At such hearing the rules
17 prescribed in Section 32 and subsection (a) of Section 33 of
18 this Act shall apply, and the burden of proof shall be on the
19 petitioner. If, however, the Agency issues an NPDES permit that
20 imposes limits which are based upon a criterion or denies a
21 permit based upon application of a criterion, then the Agency
22 shall have the burden of going forward with the basis for the
23 derivation of those limits or criterion which were derived
24 under the Board's rules.

25 (2) Except as provided in paragraph (a) (3), if there is no
26 final action by the Board within 120 days after the date on

1 which it received the petition, the petitioner may deem the
2 permit issued under this Act, provided, however, that that
3 period of 120 days shall not run for any period of time, not to
4 exceed 30 days, during which the Board is without sufficient
5 membership to constitute the quorum required by subsection (a)
6 of Section 5 of this Act, and provided further that such 120
7 day period shall not be stayed for lack of quorum beyond 30
8 days regardless of whether the lack of quorum exists at the
9 beginning of such 120-day period or occurs during the running
10 of such 120-day period.

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

17 (b) If the Agency grants a RCRA permit for a hazardous
18 waste disposal site, a third party, other than the permit
19 applicant or Agency, may, within 35 days after the date on
20 which the Agency issued its decision, petition the Board for a
21 hearing to contest the issuance of the permit. Unless the Board
22 determines that such petition is duplicative or frivolous, or
23 that the petitioner is so located as to not be affected by the
24 permitted facility, the Board shall hear the petition in
25 accordance with the terms of subsection (a) of this Section and
26 its procedural rules governing denial appeals, such hearing to

1 be based exclusively on the record before the Agency. The
2 burden of proof shall be on the petitioner. The Agency and the
3 permit applicant shall be named co-respondents.

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

7 (c) Any party to an Agency proceeding conducted pursuant to
8 Section 39.3 of this Act may petition as of right to the Board
9 for review of the Agency's decision within 35 days from the
10 date of issuance of the Agency's decision, provided that such
11 appeal is not duplicative or frivolous. However, the 35-day
12 period for petitioning for a hearing may be extended by the
13 applicant for a period of time not to exceed 90 days by written
14 notice provided to the Board from the applicant and the Agency
15 within the initial appeal period. If another person with
16 standing to appeal wishes to obtain an extension, there must be
17 a written notice provided to the Board by that person, the
18 Agency, and the applicant, within the initial appeal period.
19 The decision of the Board shall be based exclusively on the
20 record compiled in the Agency proceeding. In other respects the
21 Board's review shall be conducted in accordance with subsection
22 (a) of this Section and the Board's procedural rules governing
23 permit denial appeals.

24 (d) In reviewing the denial or any condition of a NA NSR
25 permit issued by the Agency pursuant to rules and regulations
26 adopted under subsection (c) of Section 9.1 of this Act, the

1 decision of the Board shall be based exclusively on the record
2 before the Agency including the record of the hearing, if any,
3 unless the parties agree to supplement the record. The Board
4 shall, if it finds the Agency is in error, make a final
5 determination as to the substantive limitations of the permit
6 including a final determination of Lowest Achievable Emission
7 Rate.

8 (e)(1) If the Agency grants or denies a permit under
9 subsection (b) of Section 39 of this Act, a third party, other
10 than the permit applicant or Agency, may petition the Board
11 within 35 days from the date of issuance of the Agency's
12 decision, for a hearing to contest the decision of the Agency.

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

15 (A) a demonstration that the petitioner raised the
16 issues contained within the petition during the public
17 notice period or during the public hearing on the NPDES
18 permit application, if a public hearing was held; and

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

21 (3) If the Board determines that the petition is not
22 duplicative or frivolous and contains a satisfactory
23 demonstration under subdivision (2) of this subsection, the
24 Board shall hear the petition (i) in accordance with the terms
25 of subsection (a) of this Section and its procedural rules
26 governing permit denial appeals and (ii) exclusively on the

1 basis of the record before the Agency. The burden of proof
2 shall be on the petitioner. The Agency and permit applicant
3 shall be named co-respondents.

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

6 (g) If the Agency grants or denies a permit under
7 subsection (y) of Section 39, a third party, other than the
8 permit applicant or Agency, may appeal the Agency's decision as
9 provided under federal law for CCR surface impoundment permits.
10 (Source: P.A. 99-463, eff. 1-1-16; 100-201, eff. 8-18-17.)

11 Section 10. The State Finance Act is amended by adding
12 Section 5.891 as follows:

13 (30 ILCS 105/5.891 new)

14 Sec. 5.891. The Coal Combustion Residual Surface
15 Impoundment Financial Assurance Fund.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."