



Sen. Scott M. Bennett

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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, directly or indirectly, a violation of this
11 Section or any regulations or standards adopted by the
12 Board under this Section, either alone or in combination
13 with contaminants from other 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, directly or indirectly, the
20 discharge, deposit, injection, dumping, spilling, leaking,
21 or placing of any CCR upon the land in a place and manner
22 so as to cause or tend to cause a violation this Section or
23 any regulations or standards adopted by the Board under
24 this Section.

25 (c) For purposes of this Section, a permit issued by the
26 Administrator of the United States Environmental Protection

1 Agency under Section 4005 of the federal Resource Conservation
2 and Recovery Act, shall be deemed to be a permit under this
3 Section and subsection (y) of Section 39.

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

16 (e) Owners or operators of CCR surface impoundments who
17 have submitted a closure plan to the Agency before May 31,
18 2019, and who have completed closure prior to 12 months after
19 the effective date of this amendatory Act of the 101st General
20 Assembly shall not be required to obtain a construction permit
21 for the surface impoundment closure under this Section.

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

1 other security for the purpose of: (i) ensuring closure of the
2 CCR surface impoundment and post-closure care in accordance
3 with this Act and its rules; and (ii) insuring remediation of
4 releases from the CCR surface impoundment. The only acceptable
5 forms of financial assurance are: a trust fund, a surety bond
6 guaranteeing payment, a surety bond guaranteeing performance,
7 or an irrevocable letter of credit.

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

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

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

24 (g) The Board shall adopt rules establishing construction
25 permit requirements, operating permit requirements, design
26 standards, reporting, financial assurance, and closure and

1 post-closure care requirements for CCR surface impoundments.
2 Not later than 8 months after the effective date of this
3 amendatory Act of the 101st General Assembly the Agency shall
4 propose, and not later than one year after receipt of the
5 Agency's proposal the Board shall adopt, rules under this
6 Section. The rules must, at a minimum:

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

12 (2) specify the minimum contents of CCR surface
13 impoundment construction and operating permit
14 applications, including the closure alternatives analysis
15 required under subsection (d);

16 (3) specify which types of permits include
17 requirements for closure, post-closure, remediation and
18 all other requirements applicable to CCR surface
19 impoundments;

20 (4) specify when permit applications for existing CCR
21 surface impoundments must be submitted, taking into
22 consideration whether the CCR surface impoundment must
23 close under the RCRA;

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

26 (6) specify meaningful public participation procedures

1 for the issuance of CCR surface impoundment construction
2 and operating permits, including, but not limited to,
3 public notice of the submission of permit applications, an
4 opportunity for the submission of public comments, an
5 opportunity for a public hearing prior to permit issuance,
6 and a summary and response of the comments prepared by the
7 Agency;

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

13 (8) specify a procedure to identify areas of
14 environmental justice concern in relation to CCR surface
15 impoundments;

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

23 (10) define when complete removal of CCR is achieved
24 and specify the standards for responsible removal of CCR
25 from CCR surface impoundments, including, but not limited
26 to, dust controls and the protection of adjacent surface

1 water and groundwater; and

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

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

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

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

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

22 \$50,000 for each closed CCR surface impoundment;

23 and

24 \$75,000 for each CCR surface impoundment that have
25 not completed closure.

26 (2) Annual fees to the Agency, beginning on July 1,

1 2020, of:

2 \$25,000 for each CCR surface impoundment that has
3 not completed closure; and

4 \$15,000 for each CCR surface impoundment that has
5 completed closure, but has not completed post-closure
6 care.

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

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

21 (m) The provisions of this Section shall apply, without
22 limitation, to all existing CCR surface impoundments and any
23 CCR surface impoundments constructed after the effective date
24 of this amendatory Act of the 101st General Assembly, except to
25 the extent prohibited by the Illinois or United States
26 Constitutions.

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

2 Sec. 39. Issuance of permits; procedures.

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

1 transmit to the applicant within the time limitations of this
2 Section specific, detailed statements as to the reasons the
3 permit application was denied. Such statements shall include,
4 but not be limited to the following:

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

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

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

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

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

1 applications under subsection (b) of this Section, to RCRA
2 permit applications under subsection (d) of this Section, ~~or~~ to
3 UIC permit applications under subsection (e) of this Section ,
4 or to CCR surface impoundment applications under subsection (y)
5 of this Section.

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

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

23 After June 30, 1998, operating permits issued under this
24 Section by the Agency for sources of air pollution that are not
25 subject to Section 39.5 of this Act and are not required to
26 have a federally enforceable State operating permit shall be

1 required to be renewed only upon written request by the Agency
2 consistent with applicable provisions of this Act and its
3 rules. Such operating permits shall expire 180 days after the
4 date of such a request. Before July 1, 1998, the Board shall
5 revise its rules for the existing State air pollution operating
6 permit program consistent with this paragraph and shall adopt
7 rules that require a source to demonstrate that it qualifies
8 for a permit under this paragraph.

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

14 All NPDES 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.

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

24 The Agency may include, among such conditions, effluent
25 limitations and other requirements established under this Act,
26 Board regulations, the Federal Water Pollution Control Act, as

1 now or hereafter amended, and regulations pursuant thereto, and
2 schedules for achieving compliance therewith at the earliest
3 reasonable date.

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

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

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

1 county board or governing body of the municipality shall be the
2 county board of the county or the governing body of the
3 municipality in which the facility is to be located as of the
4 date when the application for siting approval is filed.

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

21 Beginning August 20, 1993, if the pollution control
22 facility consists of a hazardous or solid waste disposal
23 facility for which the proposed site is located in an
24 unincorporated area of a county with a population of less than
25 100,000 and includes all or a portion of a parcel of land that
26 was, on April 1, 1993, adjacent to a municipality having a

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

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

22 After January 1, 1994, if a solid waste disposal facility,
23 any portion for which an operating permit has been issued by
24 the Agency, has not accepted waste disposal for 5 or more
25 consecutive calendar years, before that facility may accept
26 any new or additional waste for disposal, the owner and

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

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

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

1 which information concerning the proposed facility shall be
2 made available to the public, and members of the public shall
3 be given the opportunity to express their views concerning the
4 proposed facility.

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

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

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

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

21 (4) the site has local zoning approval.

22 (d) The Agency may issue RCRA permits exclusively under
23 this subsection to persons owning or operating a facility for
24 the treatment, storage, or disposal of hazardous waste as
25 defined under this Act. Subsection (y) of this Section, rather
26 than this subsection (d), shall apply to permits issued for CCR

1 surface impoundments.

2 All RCRA permits shall contain those terms and conditions,
3 including but not limited to schedules of compliance, which may
4 be required to accomplish the purposes and provisions of this
5 Act. The Agency may include among such conditions standards and
6 other requirements established under this Act, Board
7 regulations, the Resource Conservation and Recovery Act of 1976
8 (P.L. 94-580), as amended, and regulations pursuant thereto,
9 and may include schedules for achieving compliance therewith as
10 soon as possible. The Agency shall require that a performance
11 bond or other security be provided as a condition for the
12 issuance of a RCRA permit.

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

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

25 The applicant shall make available to the public for
26 inspection all documents submitted by the applicant to the

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

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

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

22 The Agency shall adopt filing requirements and procedures
23 which are necessary and appropriate for the issuance of UIC
24 permits, and which are consistent with the Act or regulations
25 adopted by the Board, and with the Safe Drinking Water Act
26 (P.L. 93-523), as amended, and regulations 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 (f) In making any determination pursuant to Section 9.1 of
11 this Act:

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

20 (2) The Agency shall adopt requirements as necessary to
21 implement public participation procedures, including, but
22 not limited to, public notice, comment, and an opportunity
23 for hearing, which must accompany the processing of
24 applications for PSD permits. The Agency shall briefly
25 describe and respond to all significant comments on the
26 draft permit raised during the public comment period or

1 during any hearing. The Agency may group related comments
2 together and provide one unified response for each issue
3 raised.

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

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

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

25 (h) A hazardous waste stream may not be deposited in a
26 permitted hazardous waste site unless specific authorization

1 is obtained from the Agency by the generator and disposal site
2 owner and operator for the deposit of that specific hazardous
3 waste stream. The Agency may grant specific authorization for
4 disposal of hazardous waste streams only after the generator
5 has reasonably demonstrated that, considering technological
6 feasibility and economic reasonableness, the hazardous waste
7 cannot be reasonably recycled for reuse, nor incinerated or
8 chemically, physically or biologically treated so as to
9 neutralize the hazardous waste and render it nonhazardous. In
10 granting authorization under this Section, the Agency may
11 impose such conditions as may be necessary to accomplish the
12 purposes of the Act and are consistent with this Act and
13 regulations promulgated by the Board hereunder. If the Agency
14 refuses to grant authorization under this Section, the
15 applicant may appeal as if the Agency refused to grant a
16 permit, pursuant to the provisions of subsection (a) of Section
17 40 of this Act. For purposes of this subsection (h), the term
18 "generator" has the meaning given in Section 3.205 of this Act,
19 unless: (1) the hazardous waste is treated, incinerated, or
20 partially recycled for reuse prior to disposal, in which case
21 the last person who treats, incinerates, or partially recycles
22 the hazardous waste prior to disposal is the generator; or (2)
23 the hazardous waste is from a response action, in which case
24 the person performing the response action is the generator.
25 This subsection (h) does not apply to any hazardous waste that
26 is restricted from land disposal under 35 Ill. Adm. Code 728.

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

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

20 (2) conviction in this or another State of any crime
21 which is a felony under the laws of this State, or
22 conviction of a felony in a federal court; or conviction in
23 this or another state or federal court of any of the
24 following crimes: forgery, official misconduct, bribery,
25 perjury, or knowingly submitting false information under
26 any environmental law, regulation, or permit term or

1 condition; or

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

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

23 (j) The issuance under this Act of a permit to engage in
24 the surface mining of any resources other than fossil fuels
25 shall not relieve the permittee from its duty to comply with
26 any applicable local law regulating the commencement, location

1 or operation of surface mining facilities.

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

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

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

1 to this subsection, the Agency shall transmit to the applicant
2 within the time limitations of this subsection specific,
3 detailed statements as to the reasons the permit application
4 was denied. Such statements shall include but not be limited to
5 the following:

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

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

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

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

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

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

26 (1) the facility includes a setback of at least 200

1 feet from the nearest potable water supply well;

2 (2) the facility is located outside the boundary of the
3 10-year floodplain or the site will be floodproofed;

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

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

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

26 (6) the operation will be conducted in accordance with

1 any applicable rules adopted by the Board.

2 The Agency shall issue renewable permits of not longer than
3 10 years in duration for the composting of landscape wastes, as
4 defined in Section 3.155 of this Act, based on the above
5 requirements.

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

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

15 (o) (Blank.)

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

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

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

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

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

1 for public inspection during regular business hours at the
2 office of the county board or the governing body of the
3 municipality and may be copied upon payment of the actual cost
4 of reproduction.

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

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

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

24 (3) Within 2 years after July 12, 2011 (the effective
25 date of Public Act 97-95), an online tracking system where
26 an applicant may review the status of its pending

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

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

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

1 staffing shortages. To the extent practicable, the
2 tracking report shall provide approximate dates when
3 cause for delay was identified by the Agency, when the
4 Agency informed the applicant of the problem leading to
5 the delay, and when the applicant remedied the reason
6 for the delay.

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

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

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

25 (u) If requested by the permit applicant, the Agency shall
26 provide the permit applicant with a copy of the draft permit

1 prior to any public review period.

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

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

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

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

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

1 pursuant thereto, and may include schedules for achieving
2 compliance therewith as soon as possible.

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

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

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

20 (Source: P.A. 98-284, eff. 8-9-13; 99-396, eff. 8-18-15;
21 99-463, eff. 1-1-16; 99-642, eff. 7-28-16.)

22 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

23 Sec. 40. Appeal of permit denial.

24 (a)(1) If the Agency refuses to grant or grants with
25 conditions a permit under Section 39 of this Act, the applicant

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

23 (2) Except as provided in paragraph (a) (3), if there is no
24 final action by the Board within 120 days after the date on
25 which it received the petition, the petitioner may deem the
26 permit issued under this Act, provided, however, that that

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

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

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

1 permit applicant shall be named co-respondents.

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

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

22 (d) In reviewing the denial or any condition of a NA NSR
23 permit issued by the Agency pursuant to rules and regulations
24 adopted under subsection (c) of Section 9.1 of this Act, the
25 decision of the Board shall be based exclusively on the record
26 before the Agency including the record of the hearing, if any,

1 unless the parties agree to supplement the record. The Board
2 shall, if it finds the Agency is in error, make a final
3 determination as to the substantive limitations of the permit
4 including a final determination of Lowest Achievable Emission
5 Rate.

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

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

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

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

19 (3) If the Board determines that the petition is not
20 duplicative or frivolous and contains a satisfactory
21 demonstration under subdivision (2) of this subsection, the
22 Board shall hear the petition (i) in accordance with the terms
23 of subsection (a) of this Section and its procedural rules
24 governing permit denial appeals and (ii) exclusively on the
25 basis of the record before the Agency. The burden of proof
26 shall be on the petitioner. The Agency and permit applicant

1 shall be named co-respondents.

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

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

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

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

11 (30 ILCS 105/5.891 new)

12 Sec. 5.891. The Coal Combustion Residual Surface
13 Impoundment Financial Assurance Fund.

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

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."