



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4358

Introduced 1/5/2022, by Rep. Rita Mayfield and Robyn Gabel

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.59a new

Amends the Environmental Protection Act. Provides that all CCR generated by the electric generating industry located in a municipality bordering Lake Michigan with greater than 75,000 inhabitants but fewer than 150,000 inhabitants shall be removed from the site. Provides that, notwithstanding any other provision of law, the amendatory provisions do not impact any financial obligation arising before their effective date. Effective immediately.

LRB102 23423 CPF 32592 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 22.59a as follows:

6 (415 ILCS 5/22.59a new)

7 Sec. 22.59a. Great Lakes CCR protection.

8 (a) The General Assembly finds that:

9 (1) The State has a long-standing policy to restore,
10 protect, and enhance the environment, and has a particular
11 interest in preserving the quality of Lake Michigan, which
12 serves as a drinking water source for millions of State
13 residents and provides irreplaceable recreational,
14 ecological, and economic value to Illinois.

15 (2) CCR generated by the electric generating industry
16 has contaminated, and continues to contaminate, Lake
17 Michigan, and CCR placed in unlined deposits, including
18 deposits outside of CCR surface impoundments as well as in
19 CCR surface impoundments, continues to threaten the
20 quality of Lake Michigan's water.

21 The purpose of this Section is to protect Lake Michigan
22 against further contamination from CCR.

23 (b) All CCR generated by the electric generating industry

1 located in a municipality bordering Lake Michigan with greater
2 than 75,000 inhabitants but fewer than 150,000 inhabitants,
3 based on 2020 census data, shall be removed from the site as
4 follows:

5 (1) CCR in all CCR surface impoundments and any CCR
6 deposits for which an adjusted standard has been sought
7 pursuant to Section 28.1 shall be closed by removal,
8 pursuant to the procedures set out in Section 22.59 and
9 implementing regulations under 35 Ill. Adm. Code Part 845,
10 notwithstanding any operating or construction permit
11 application submitted to the Agency or any permit granted
12 by the Agency under Part 845 of Title 35 of the Illinois
13 Administrative Code. Any permit application or permit
14 allowing a CCR surface impoundment subject to this Section
15 to close in place shall be declared void by the Agency. If
16 the owner or operator of any CCR surface impoundment
17 subject to this Section has submitted a construction
18 permit application to the Agency to close a subject CCR
19 surface impoundment by any method other than removal under
20 Part 845 of Title 35 of the Illinois Administrative Code,
21 the owner or operator shall submit an amended construction
22 permit application that complies with the requirements of
23 this Section.

24 (2) The owner or operator of any electric generating
25 unit shall conduct a site investigation sufficient to
26 identify and characterize the scope and extent of all CCR

1 placed, stored, or disposed outside of CCR surface
2 impoundments at the facility. Within one year of the
3 effective date of this amendatory Act of the 102nd General
4 Assembly, the owner or operator shall propose the site
5 investigation in a construction permit application
6 following the procedures for construction permits under
7 Section 22.59, subsection (y) of Section 39, and 35 Ill.
8 Adm. Code Part 845. The Agency shall grant, grant with
9 conditions, or deny the permit application in accordance
10 with those procedures within 6 months of receipt of a
11 complete application. If the Agency denies the
12 application, the owner or operators of the electric
13 generating unit must fix all deficiencies identified by
14 the Agency and submit a corrected permit application
15 within 3 months of the denial.

16 (3) The owner or operator must complete the site
17 investigation set out in this subsection (b) within one
18 year of the Agency's issuance of the permit.

19 (4) Within 6 months of completing the site
20 investigation, the owner or operator of an electric
21 generating unit shall submit a construction permit
22 application to the Agency, which shall be evaluated,
23 granted, or denied by the Agency following the procedures
24 for construction permits under Section 22.59, subsection
25 (y) of Section 39, and 35 Ill. Adm. Code Part 845. The
26 Agency may grant such permit application only if it

1 proposes to remove all CCR outside of CCR surface
2 impoundments from the site consistent with the procedures
3 set out in 35 Ill. Adm. Code Part 845 for closure by
4 removal.

5 (5) If the Agency grants or denies a permit under this
6 Section, a third party, other than the permit applicant or
7 the Agency, may petition the Board within 35 days from the
8 date of issuance of the Agency's decision, for a hearing
9 to contest the decision of the Agency. If the Board
10 determines that the petition is not duplicative or
11 frivolous, the Board shall hear the petition (i) in
12 accordance with the terms of subsection (a) of Section 40
13 as well as the procedural rules governing permit appeals,
14 and (ii) exclusively on the basis of the record before the
15 Agency. The burden of proof shall be on the petitioner.

16 (c) Notwithstanding any other provision of law, this
17 Section does not impact any financial obligation arising
18 before the effective date of this amendatory Act of the 102nd
19 General Assembly, including, but not limited to, any financial
20 obligation imposed or impacted by any change to this Act made
21 by Public Act 101-171.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.