



Sen. Scott M. Bennett

Filed: 3/15/2019

10100SB0009sam001

LRB101 06168 CPF 57857 a

1 AMENDMENT TO SENATE BILL 9

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

4 "Section 1. Short title. This Act may be cited as the Coal
5 Ash Pollution Prevention Act.

6 Section 2. Findings and construction. The General Assembly
7 finds that a clean environment is essential to the continuing
8 growth and well-being of Illinois' economy and its people. This
9 Act shall be interpreted broadly to prevent pollution from the
10 many coal ash dumps threatening the public health and
11 environment throughout Illinois. It is intended to be more
12 stringent than federal requirements, which, at the time of this
13 Act's enactment, continue to leave Illinoisans and our
14 environment at risk.

15 Section 5. Definitions. In this Act:

1 "Agency" means the Illinois Environmental Protection
2 Agency.

3 "CCR landfill" means an area of land or an excavation that
4 receives, or has received, CCR and is not a CCR surface
5 impoundment, underground injection well, salt dome formation,
6 salt bed formation, underground or surface coal mine, or cave.
7 "CCR landfill" includes CCR piles.

8 "CCR surface impoundment" means a natural topographic
9 depression, man-made excavation, quarry, or diked area that (i)
10 is designed, or has been used, to hold an accumulation of CCR
11 and liquids, and (ii) treats, stores, or disposes of CCR,
12 regardless of whether CCR continues to be added to the
13 impoundment.

14 "CCR unit" means any CCR landfill, CCR surface impoundment,
15 lateral expansion of a CCR unit, or combination of 2 or more of
16 those units. "CCR unit" includes any CCR below the unit
17 boundary of the CCR landfill or CCR surface impoundment.

18 "Coal combustion residuals" or "CCR" means fly ash, bottom
19 ash, boiler slag, or flue gas desulfurization materials
20 generated from burning coal for the purpose of generating
21 electricity for sale by an electric utility or for use by a
22 private corporation.

23 "CCR pile" means any non-containerized accumulation of
24 solid, non-flowing CCR that is placed on the land, but does not
25 include any CCR stored for beneficial use under subsection (c)
26 of Section 40.

1 "CCR pollutants" means antimony, arsenic, barium,
2 beryllium, boron, cadmium, chromium, cobalt, fluoride, lead,
3 lithium, mercury, molybdenum, selenium, thallium, and radium
4 226 and 228 combined.

5 "Director" means the Director of the Illinois
6 Environmental Protection Agency.

7 "Encapsulated beneficial use" means a beneficial use of CCR
8 that binds the CCR into a solid matrix and minimizes its
9 mobilization into the surrounding environment.

10 "Lined CCR unit" means any CCR unit with a liner meeting
11 the specifications of 40 C.F.R. 257.71(a)(1)(ii) or
12 257.71(a)(1)(iii).

13 "LEAF leach test" means the U.S. Environmental Protection
14 Agency's Leaching Environmental Assessment Framework ("LEAF"),
15 EPA Methods 1313 and 1314.

16 "Location standards" means:

17 For CCR surface impoundments, the location restrictions
18 set out at 40 C.F.R. 257.60 through 257.64 as promulgated by
19 the U.S. Environmental Protection Agency on April 17, 2015, in
20 "Hazardous and Solid Waste Management System; Disposal of Coal
21 Combustion Residuals from Electric Utilities," 80 Fed. Reg.
22 21,302, 21,471-21,473, as well as a prohibition on being
23 located, in whole or in part, in the 100-year floodplain.

24 For CCR landfills, the location restriction for unstable
25 areas set out at 40 C.F.R. 257.64 as promulgated by the U.S.
26 Environmental Protection Agency on April 17, 2015, in

1 "Hazardous and Solid Waste Management System; Disposal of Coal
2 Combustion Residuals from Electric Utilities," 80 Fed. Reg.
3 21,302, 21,473, as well as a prohibition on being located, in
4 whole or in part, in the 100-year floodplain.

5 "Operator" or "owner or operator" means any person that
6 owns or operates, solely or with other persons, any CCR unit.

7 "Person" means any individual, partnership,
8 co-partnership, firm, company, limited liability company,
9 corporation, association, joint stock company, trust, estate,
10 political subdivision, State agency, or any other legal entity,
11 or their legal representative, agent, or assigns.

12 "Potential environmental justice community" means a
13 community where the low-income or minority population
14 percentage is greater than the statewide average.

15 "Prevailing wage" has the meaning given for "prevailing
16 rate of wage" in Section 2 of the Prevailing Wage Act.

17 "Safety factors" means the factors of safety set out at 40
18 C.F.R 257.74(e) (i) through (v).

19 "Sole Source Aquifer" means an aquifer determined by the
20 U.S. Environmental Protection Agency to be a Sole Source
21 Aquifer under 1424(e) of the Safe Drinking Water Act of 1974.

22 "Sole Source Aquifer" includes, but is not limited to, the
23 Mahomet Aquifer.

24 "Statistically significant increase" means:

25 For CCR Pollutants for which a groundwater protection
26 standard has been set by the U.S. Environmental Protection

1 Agency under 40 C.F.R. 257.95(h), any statistically
2 significant increase over that groundwater protection standard
3 as determined under 40 C.F.R. 257.95(h).

4 For CCR Pollutants for which no groundwater protection
5 standard has been set by the U.S. Environmental Protection
6 Agency under 40 C.F.R. 257.95(h), a statistically significant
7 increase, as determined under 40 C.F.R. 257.93(f), (g), and
8 (h)(1), in that CCR pollutant above the Class I groundwater
9 standard for that pollutant set out in Section 620.410 of Title
10 35 of the Illinois Administrative Code.

11 "Unlined CCR unit" means any CCR unit that is not a lined
12 CCR unit.

13 Section 10. Powers and duties.

14 (a) Except as otherwise provided, the Agency shall enforce
15 this Act and any rules, regulations, or orders adopted in
16 accordance with this Act.

17 (b) Except as otherwise provided, the Agency shall have
18 jurisdiction and authority over all persons and property
19 necessary to effectively enforce the provisions of this Act. In
20 aid of this jurisdiction, the Director, or anyone designated in
21 writing by the Director, shall have the authority to administer
22 oaths and to issue subpoenas for the production of records or
23 other documents and for the attendance of witnesses at any
24 proceedings of the Agency.

25 (c) The Agency may authorize any employee of the Agency

1 qualified by training and experience to perform the powers and
2 duties set forth in this Act.

3 (d) For the purpose of determining compliance with the
4 provisions of this Act and any orders or rules entered or
5 adopted under this Act, the Agency shall have the right at all
6 times to go upon and inspect properties where CCR is or has
7 been generated, stored, disposed of, transported, or
8 beneficially used.

9 (e) The Agency shall have the authority and it shall be the
10 Agency's duty to make such inquiries as the Director may think
11 proper to determine whether or not a violation of this Act or
12 any orders or rules entered or adopted under this Act exists or
13 is imminent. In the exercise of these powers, the Agency has
14 the authority to:

- 15 (1) collect data;
- 16 (2) require testing and sampling;
- 17 (3) make investigation and inspection;
- 18 (4) examine properties, including records and logs;
- 19 (5) hold hearings;
- 20 (6) adopt administrative rules; and
- 21 (7) take any action reasonably necessary to enforce
22 this Act.

23 (f) The Agency may specify the manner in which all
24 information required under this Act is to be submitted.

25 (g) The Agency shall specify the fees to be submitted with
26 all proposals required by this Act, including closure plans,

1 corrective action plans, applications for CCR transport
2 permits, applications for beneficial use permits, and
3 evaluation of alternatives analyses for landfill disposal of
4 CCR. The fee to accompany those proposals shall be
5 non-refundable and in an amount adequate to cover the costs the
6 Agency incurs in reviewing and issuing or denying the proposal,
7 including, but not limited to, the costs of:

8 (1) reviewing the proposal and accompanying materials,
9 as well as any public comments or testimony offered on the
10 proposal;

11 (2) holding a public hearing on the proposal in
12 accordance with Section 65; and

13 (3) drafting the permit or the denial of the proposal.

14 The Agency shall review and, if necessary, revise the fees
15 for proposals under this Act on an annual basis.

16 Section 15. CCR units; closure by removal.

17 (a) An owner or operator of an unlined CCR unit, as
18 determined under subsection (d), a CCR unit that does not meet
19 the location standards as determined under subsection (e), a
20 CCR surface impoundment that does not meet the safety factors
21 as determined under subsection (f), and a CCR unit at which a
22 statistically significant increase in any CCR pollutant has
23 been identified, shall close the CCR unit by:

24 (1) halting the placement of CCR in the CCR unit;

25 (2) removing all CCR from the CCR unit; and

1 (3) either:

2 (A) using the CCR in encapsulated beneficial use;

3 or

4 (B) disposing of the CCR in a permitted landfill on
5 the property upon which the CCR unit is located,
6 adjacent to the property upon which the CCR unit is
7 located, or off of the property on which the CCR unit
8 is located, that:

9 (i) meets all location standards for CCR
10 surface impoundments;

11 (ii) is not located over a sole source aquifer;

12 (iii) has a leachate collection system that
13 meets or exceeds the federal criteria for a
14 municipal solid waste landfills under 40 C.F.R.
15 Part 258; and

16 (iv) meets all requirements for lined CCR
17 landfills set forth at 40 C.F.R. Part 257 except as
18 otherwise specified herein.

19 (b) An owner or operator of a CCR unit required to close by
20 removal under subsection (a) shall, within 6 months of the
21 effective date of this Act, halt the placement of CCR in those
22 CCR units and begin removal of the CCR in those CCR units.

23 An owner or operator shall complete the removal of CCR from
24 the CCR unit no later than 15 years after initiating the
25 closure process at that CCR unit.

26 (c) The Agency shall issue a confirmation of completion of

1 closure before financial assurance under Section 75 may be
2 released.

3 (d) Within 60 days after the effective date of this Act,
4 the operator of a CCR unit shall submit to the Agency the
5 following:

6 (1) a determination, prepared and certified by a
7 professional engineer licensed in Illinois, specifying
8 whether the CCR unit meets the definition in this Act of a
9 lined CCR unit; and

10 (2) documentation supporting that determination.

11 The determination and supporting documentation shall be
12 posted on the Agency's website as well as a publicly accessible
13 website that does not require registration and is operated by
14 the operator of the CCR unit.

15 (e) Within 60 days after the effective date of this Act, an
16 operator of a CCR unit must submit to the Agency the following:

17 (1) a determination, prepared and certified by a
18 professional engineer licensed in Illinois, specifying
19 whether the CCR unit meets the location standards, which of
20 the location standards the CCR unit meets, and which it
21 does not meet; and

22 (2) documentation supporting that determination.

23 The determination and supporting documentation shall be
24 posted on the Agency's website as well as a publicly accessible
25 website that does not require registration and is operated by
26 the operator of the CCR unit.

1 (f) To determine whether a CCR surface impoundment meets
2 the safety factors, a professional engineer licensed in
3 Illinois shall assess whether the critical cross section of the
4 embankment of the CCR surface impoundment achieves the safety
5 factors. The safety factor assessments must be supported by
6 appropriate engineering calculations. All safety factor
7 assessments and supporting calculations and documentation
8 shall be submitted to the Agency within 60 days after the
9 effective date of this Act. The safety factor assessment and
10 supporting documentation shall be posted on the Agency's
11 website as well as a publicly accessible website operated by
12 the operator of the CCR unit that does not require
13 registration.

14 In this subsection, "critical cross section" means the
15 cross section anticipated to be the most susceptible of all
16 cross sections to structural failure based on appropriate
17 engineering considerations, including loading conditions.

18 (g) If a person has information indicating that any liner
19 status determination, location standards determination, or
20 safety factor assessment submitted by an operator under this
21 Section inaccurately concludes that the CCR unit is a lined CCR
22 unit, meets location standards, or meets the applicable safety
23 factors, that person may submit that information to the Agency.

24 The Agency shall review the information submitted, provide
25 it to the operator of the CCR unit at issue, and make a
26 determination of whether the documentation submitted by the

1 operator is inaccurate. If the Agency so concludes, it shall
2 inform the operator and the person who provided the information
3 under this Section of that decision, post the decision on its
4 website, and direct the operator of the CCR unit at issue to
5 comply with applicable requirements of this Act.

6 Section 20. Closure plan.

7 (a) An operator of a CCR unit required to close by removal
8 under Section 15 must submit a closure plan to the Agency
9 within 3 months after the effective date of this Act.

10 (b) The closure plan must specify measures that the
11 operator will take to limit water pollution and air pollution
12 from the CCR unit while removal of the CCR is ongoing. Those
13 measures shall include, but are not limited to, the following:

14 (1) Measures to control CCR dust at the site during
15 removal, including, but not limited to: covering CCR
16 transport trucks; limiting the distance that CCR is dropped
17 from any storage facility or equipment into trucks or other
18 storage facilities; using water sprays or chemical
19 suppressants to limit dust during removal; loading,
20 unloading, or transfer operations; and suspending loading,
21 unloading, or transfer operations during high winds.

22 (2) Measures to minimize risk to workers while removal
23 is taking place, including, but not limited to: properly
24 located, calibrated, and operated dust monitors, checked
25 at determined intervals; provision of dust masks and suits

1 for use during removal; enclosed areas set back from the
2 CCR unit where workers can store and change into regular
3 clothing; protected areas for workers to take breaks or eat
4 meals; and training for workers before they begin removal
5 activities about the contents and dangers of CCR dust, how
6 to protect against those dangers, and who to contact if
7 dust controls are not working.

8 (3) Measures to minimize the release of any CCR into
9 surface waters while removal is ongoing, which may include,
10 but are not limited to, silt dams, silt curtains, or
11 temporary barriers between the CCR unit and the surface
12 water.

13 (c) Together with any supporting materials, the closure
14 plan shall be posted by the Agency on its website and made
15 available for public review, comment, and public hearing, if
16 requested, consistent with Sections 55, 60, and 65. The owner
17 or operator that submits the closure plan shall also post the
18 closure plan and any supporting materials on a publicly
19 accessible website, that has no registration requirements,
20 until the Agency has issued an approved closure plan.

21 (d) The Agency shall only approve a closure plan if it
22 complies with the requirements of this Act. The Agency shall
23 review the closure plan and make any changes it deems necessary
24 to ensure compliance with this Act. In evaluating whether any
25 changes to the closure plan are needed, the Agency shall
26 consider the following:

1 (1) The closure plan and all supporting documentation.

2 (2) All written comments received during the public
3 comment period on the closure plan.

4 (3) If applicable, testimony from any public hearing
5 held under Section 65.

6 Within 90 days after receiving the closure plan, the Agency
7 shall approve the plan or approve it with any modifications the
8 Agency deems necessary to ensure compliance with this Act. The
9 Agency shall post the approved closure plan on its website, and
10 the owner or operator who submits the closure plan shall post
11 the approved closure plan on a publicly accessible website that
12 has no registration requirements.

13 The Agency's approval of the approved closure plan under
14 this Section shall be considered a final administrative
15 decision subject to judicial review under the Administrative
16 Review Law and the rules adopted under that Law.

17 Section 25. Local workers.

18 (a) An entity conducting closure activities, including
19 removal of CCR, transport of CCR, or corrective action to
20 remediate CCR pollution as set forth in Sections 15, 30, and
21 50, shall, to the maximum extent practicable, utilize local
22 labor and ensure that the work is performed by responsible
23 contractors and subcontractors that pay workers, as evidenced
24 by payroll and employee records, the prevailing wage and fair
25 benefits, including employee health care coverage, pension or

1 401(k) benefits, and certified apprenticeship programs.

2 (b) A contractor or subcontractor shall keep a record of
3 observing all local, State, and federal laws, including laws
4 pertaining to withholding taxes, minimum and overtime wages,
5 workers' compensation insurance, and occupational health and
6 safety. A contractor working on the project shall keep an
7 up-to-date list of its subcontractors.

8 Section 30. CCR transport.

9 (a) A CCR transport truck must carry manifests specifying,
10 for each load of CCR transported, the following:

11 (1) The volume of the CCR.

12 (2) The location from which the CCR was loaded onto the
13 truck and the date the loading took place.

14 (3) The location where the CCR is being taken and the
15 date it will be delivered.

16 (4) A warning of the hazards of inhalation or ingestion
17 of CCR, instructions on how to prevent inhalation or
18 ingestion of CCR, and what to do if CCR is inhaled or
19 ingested.

20 (b) The operator of a CCR unit from which CCR is removed
21 and transported off-site under Section 15 shall develop a CCR
22 transportation plan in consultation with the unit of local
23 government in which the CCR unit is located and any unit of
24 local government within 2 miles of the CCR units in order to
25 minimize the impact of any transport of CCR on adjacent

1 property owners and surrounding communities.

2 (c) The CCR transportation plan specified in subsection (b)
3 shall do all of the following:

4 (1) Identify transportation options available in order
5 to transport removed CCR from the CCR unit. This may
6 include a combination of different transportation methods
7 as necessary to meet the closure time frame established in
8 Section 15.

9 (2) Specify plans for any transportation by truck,
10 including the frequency, time of day, and route of truck
11 travel, and measures to minimize noise, traffic, and safety
12 concerns caused by the truck travel.

13 (3) Specify measures to limit fugitive dust from any
14 transportation of CCR by truck. Measures to control
15 fugitive dust from truck travel include, but are not
16 limited to:

17 (A) regular maintenance of roads used for
18 transport of CCR;

19 (B) restricting the speed of CCR transport trucks;

20 (C) covering CCR transport trucks;

21 (D) limiting the distance that CCR is dropped from
22 any storage facilities or excavating equipment into
23 trucks; and

24 (E) suspending the loading, unloading, or transfer
25 of CCR during high winds.

26 (4) Specify measures to be used by CCR transport trucks

1 to limit air pollution from trucks, which include, but are
2 not limited to:

3 (A) restrictions on fuel type;

4 (B) minimum fuel efficiency requirements;

5 (C) air pollution control equipment requirements;

6 and

7 (D) limits on idling.

8 If transportation of CCR is not by truck, the owner or
9 operator shall specify similar measures to control fugitive CCR
10 dust pollution when it is transported using other modes of
11 transportation.

12 (d) No CCR that is removed from a CCR unit may be
13 transported without a CCR transport permit approved by the
14 Agency.

15 (1) An operator of any CCR unit from which CCR is
16 removed that seeks to transport that CCR off-site for
17 disposal in an off-site landfill or through beneficial use
18 shall, within 60 days after the effective date of this Act,
19 submit an application for a CCR transport permit to the
20 Agency. The permit application shall be accompanied by the
21 fee required under subsection (g) of Section 10 and shall
22 consist of the following additional materials:

23 (A) the CCR transportation plan developed under
24 subsections (b) and (c); and

25 (B) a certification that the operator shall only
26 transport CCR, or contract for transport with an entity

1 that will transport CCR, in accordance with the
2 manifest requirements of subsection (a) as well as the
3 CCR transportation plan.

4 (2) If the Agency determines that an application for a
5 CCR transport permit satisfies the requirements of this
6 Act, the Agency shall prepare a draft CCR transport permit
7 within 60 days after receipt of the application for the CCR
8 transport permit. The draft CCR transport permit shall:

9 (A) approve, disapprove, or approve with any
10 conditions the Agency deems necessary the CCR
11 transportation plan, which shall be incorporated as a
12 condition of the CCR transport permit; and

13 (B) require compliance with the manifest
14 requirements set out in subsection (a) as a condition
15 of the CCR transport permit.

16 (3) Together with the permit application and any
17 supporting materials, the draft CCR transport permit shall
18 be posted by the Agency on its website and made available
19 for public review, comment, and, if requested, public
20 hearing, consistent with Sections 55, 60, and 65. The
21 applicant shall post the permit application, supporting
22 materials, and draft CCR transport permit on a publicly
23 accessible website that has no registration requirements
24 and shall keep those documents posted until the Agency has
25 issued a final CCR transport permit or denied the permit
26 application.

1 (e) Within 120 days after receipt of an application for a
2 CCR transport permit, the Agency shall determine whether to
3 issue a final CCR transport permit. In determining whether to
4 issue the permit, the Agency shall consider the following:

5 (1) The CCR transport permit application and all
6 supporting documentation.

7 (2) All written comments received during the public
8 comment period on the draft CCR transport permit.

9 (3) If applicable, testimony from any public hearing
10 held under Section 65.

11 (f) The Agency shall only issue a final CCR transport
12 permit if:

13 (1) the applicant has submitted a complete application
14 for a CCR transport permit under paragraph (1) of
15 subsection (d); and

16 (2) the CCR transportation plan meets the requirements
17 under subsections (b) and (c).

18 (g) The final CCR transport permit shall, at minimum,
19 comply with the following:

20 (1) incorporate the CCR transportation plan, with any
21 modifications the Agency deems necessary, as a permit
22 condition or conditions;

23 (2) require compliance with the manifest system set out
24 in subsection (a) as a permit condition; and

25 (3) any other terms or conditions the Agency deems
26 necessary.

1 The Agency shall post the final CCR transport permit or
2 notice of denial of the CCR transport permit application on its
3 website. The applicant shall post the final CCR transport
4 permit or notice of denial on a publicly accessible website
5 that has no registration requirements.

6 The Agency's decision to issue a final CCR transport permit
7 or deny an application for a permit under this Section shall be
8 considered a final administrative decision subject to judicial
9 review under the Administrative Review Law and the rules
10 adopted under that Law.

11 Section 35. Off-site landfill disposal.

12 (a) No CCR removed from a CCR unit under this Act may be
13 disposed of in a landfill off of the property on which the CCR
14 unit is located without approval from the Agency.

15 (b) If CCR removed from a CCR unit is to be disposed of in a
16 landfill off of the property on which the CCR unit is located,
17 the operator of the CCR unit must, within 90 days after the
18 effective date of this Act, submit to the Agency an evaluation
19 of alternatives accompanied by the fee required under
20 subsection (g) of Section 10. The evaluation must conform with
21 all of the following:

22 (1) Identify any landfills meeting the requirements of
23 subparagraph (B) of paragraph (3) of subsection (a) of
24 Section 15 that are within 100 miles of the CCR unit from
25 which the CCR will be removed.

1 (2) Include documentation demonstrating that the
2 landfill meets the requirements of subparagraph (B) of
3 paragraph (3) of subsection (a) of Section 15.

4 (3) Set forth the demographics of the municipality, if
5 applicable, where each landfill is located, including
6 whether the municipality is a potential environmental
7 justice community.

8 (4) State the volume of CCR that could be deposited in
9 each landfill identified in paragraph (1).

10 (5) Identify the landfill in which the operator
11 proposes to dispose of CCR.

12 If the landfill proposed by the operator for CCR disposal
13 is located in a potential environmental justice community, the
14 operator must show that it is not technically feasible to
15 dispose of the CCR in any other landfill within 100 miles of
16 the CCR unit that meets the requirements of subparagraph (B) of
17 paragraph (3) of subsection (a) of Section 15.

18 The Agency shall post the evaluation of alternatives and
19 any supporting documentation on its website and make them
20 available for public review, comment, and, if requested, public
21 hearing in accordance with Sections 55, 60, and 65. The
22 applicant shall post the evaluation of alternatives and
23 supporting materials on a publicly accessible website that has
24 no registration requirements.

25 (c) The Agency shall review the evaluation of alternatives.
26 For the purpose of determining whether to approve the disposal

1 site proposed in the evaluation of alternatives, the Agency
2 shall consider the following:

3 (1) The evaluation of alternatives and all supporting
4 documentation.

5 (2) All written comments received during the public
6 comment period.

7 (3) If applicable, testimony from any public hearing
8 held under Section 65.

9 Within 90 days of receipt of the evaluation of
10 alternatives, the Agency shall approve, deny, or approve with
11 conditions the disposal of CCR in the landfill proposed by the
12 operator in paragraph (5) of subsection (b).

13 (d) The Agency may only approve the disposal site proposed
14 in the evaluation of alternatives if:

15 (1) The applicant has submitted a complete evaluation
16 of alternatives with all required supporting
17 documentation.

18 (2) The applicant demonstrates that the landfill
19 proposed for CCR disposal meets the requirements of
20 subparagraph (B) of paragraph (3) of subsection (a) of
21 Section 15.

22 (3) If the landfill proposed for CCR disposal is
23 located in a potential environmental justice community,
24 the operator demonstrates that it is not technically
25 feasible to dispose of the CCR in any other landfill within
26 100 miles of the CCR unit that meets the requirements of

1 subparagraph (B) of paragraph (3) of subsection (a) of
2 Section 15.

3 If the Agency denies disposal in the landfill proposed by
4 the operator of the CCR unit, the Agency shall, in the notice
5 of denial, specify any acceptable landfills for CCR disposal
6 that meet the requirements of subparagraph (B) of paragraph (3)
7 of subsection (a) of Section 15. The operator may dispose of
8 the CCR in any landfill specified by the Agency that is not
9 within a potential environmental justice community.

10 The Agency shall post its notice of approval, denial, or
11 approval with conditions, under this subsection, on its
12 website. The applicant shall post the notice of approval,
13 notice of denial, and notice of approval with conditions, as
14 well as the evaluation of benefits and supporting materials on
15 a publicly accessible website that has no registration
16 requirements.

17 The Agency's decision to approve, deny, or approve with
18 conditions the landfill proposed for disposal of CCR under this
19 Section shall be considered a final administrative decision
20 subject to judicial review under the Administrative Review Law
21 as now or hereafter amended, and the rules adopted under that
22 Law.

23 Section 40. Beneficial use permit.

24 (a) Notwithstanding any other provision of law, no CCR
25 removed from any CCR unit under Section 15 may be beneficially

1 used in this State unless the Agency has issued a beneficial
2 use permit for that CCR under this Act.

3 (b) Every operator that seeks to dispose of CCR removed
4 under Section 15 by means of beneficial use must submit to the
5 Agency an application for a beneficial use permit. The
6 application shall be accompanied by the fee required by
7 subsection (g) of Section 10 and shall contain the following:

8 (1) The name and address of the operator, and any
9 parent or subsidiary entity thereof, of the CCR unit from
10 which the CCR will be removed.

11 (2) The name and address of any person proposing to
12 beneficially use the CCR.

13 (3) The proposed encapsulated beneficial use for which
14 the CCR will be used.

15 (4) The volume of CCR to be beneficially used.

16 (5) The location at which the beneficially used CCR
17 will be used, if available.

18 (6) An explanation, with supporting documentation, of
19 how the CCR proposed to be beneficially used will be stored
20 in accordance with the requirements of subsection (c).

21 (7) The results of a LEAF leach test of the CCR
22 performed in accordance with subsection (d), if
23 applicable.

24 (c) CCR removed from a CCR unit that will be, but has not
25 yet been, beneficially used in accordance with this Act must be
26 stored and handled in the following manner:

1 (1) The CCR must be stored in an enclosed vessel or
2 space, including, but not limited to, a building or a
3 covered silo, bin, or tank, that is located at least 40
4 feet from any waterway and has an impermeable floor or is
5 set on an impermeable surface.

6 (2) Measures must be taken to limit CCR dust pollution
7 during the loading, unloading, and transferring of the CCR,
8 including:

9 (A) using water sprays or chemical dust
10 suppressants to limit dust during loading, unloading,
11 and transferring of the CCR;

12 (B) limiting the distance that the CCR is dropped
13 during the loading, unloading, and transferring of the
14 CCR to no more than 5 feet; and

15 (C) suspending the loading, unloading, and
16 transferring of the CCR during high winds.

17 (d) Prior to submitting an application for a beneficial use
18 permit, an operator of a CCR unit that seeks to dispose of CCR
19 through beneficial use must conduct an independent LEAF leach
20 test on that CCR. An independent LEAF leach test shall be
21 performed on CCR taken from each CCR unit.

22 (e) If the Agency determines that the application satisfies
23 the requirements of this Act, the Agency shall, within 60 days
24 after receiving the application for a beneficial use permit,
25 issue a draft beneficial use permit. The draft beneficial use
26 permit shall propose to approve, disapprove, or approve with

1 conditions the beneficial use permit.

2 (f) Together with the beneficial use permit application and
3 any supporting materials, the draft beneficial use permit shall
4 be posted by the Agency on its website and made available for
5 public review, comment, and, if requested, public hearing,
6 consistent with Sections 55, 60, and 65. The applicant shall
7 post the draft permit, application, and supporting materials on
8 a publicly accessible website that has no registration
9 requirements until the Agency has issued a final beneficial use
10 permit or denied the permit application.

11 (g) The Agency shall determine whether to issue a final
12 beneficial use permit. For the purpose of determining whether
13 to issue such permit, the Agency shall consider the following:

14 (1) The beneficial use permit application and all
15 supporting documentation.

16 (2) All written comments received during the public
17 comment period on the draft beneficial use permit.

18 (3) If applicable, testimony from any public hearing
19 held under Section 65.

20 (h) The Agency shall only issue a final beneficial use
21 permit if:

22 (1) The applicant submits a complete application for a
23 beneficial use permit consistent with this Section.

24 (2) The applicant demonstrates that the applicant will
25 comply with the storage requirements set forth in
26 subsection (c).

1 (3) The results of the LEAF leach tests of the CCR
2 proposed to be beneficially used, performed in accordance
3 with subsection (d), do not show concentrations of CCR
4 pollutants in excess of Class I groundwater standards set
5 forth in Section 620.410 of Title 35 of the Illinois
6 Administrative Code for any CCR pollutants. If no Class I
7 standard has been set for a CCR pollutant, the LEAF leach
8 tests must not show concentrations exceeding the
9 groundwater protection standard set by the U.S.
10 Environmental Protection Agency for that pollutant under
11 40 C.F.R. 257.95(h).

12 (4) The application satisfies all relevant
13 requirements of this Act.

14 (i) The final beneficial use permit shall, at minimum, (i)
15 incorporate proposals and representations in the application,
16 as appropriate, as conditions in order to ensure compliance
17 with this Act; and (ii) require compliance with CCR storage
18 provisions set forth in subsection (c). The Agency may include
19 other terms and conditions that it deems necessary.

20 (1) The Agency shall post the final beneficial use
21 permit or notice of denial of the beneficial use permit
22 application on its website. The applicant shall post the
23 final beneficial use permit or notice of denial on a
24 publicly accessible website that has no registration
25 requirements.

26 (2) The Agency's decision to issue or deny a final

1 beneficial use permit under this Section shall be
2 considered a final administrative decision subject to
3 judicial review under the Administrative Review Law, and
4 the rules adopted under that Law.

5 Section 45. Closure progress reports.

6 (a) On or before October 1, 2022, and on October 1st of
7 each even-numbered year thereafter, until closure of all of a
8 facility's CCR units is complete, the operator of a CCR unit
9 subject to Sections 15 and 20 shall compile the following 2
10 reports:

11 (1) A report regarding the closure plan containing the
12 following:

13 (A) A description of the owner's or operator's
14 closure plan for all CCR units.

15 (B) The closure progress as of the date of the
16 report, both per unit and in total.

17 (C) A detailed accounting of the amounts of CCR
18 that have been and are expected to be beneficially used
19 from CCR units, both per unit and in total.

20 (D) A detailed accounting of the amounts of CCR
21 that have been and are expected to be landfilled from
22 units, both per unit and in total.

23 (E) A detailed accounting of the CCR
24 transportation plan as required under Section 30.

25 (F) The results of groundwater and surface water

1 monitoring conducted under the closure plan and any
2 measures taken to address the results as closure is
3 being or has been completed.

4 (2) A report on any beneficial use permits or
5 beneficial use permit applications under Section 40
6 summarizing the types of encapsulated beneficial use for
7 which removed CCR has been or is being used and any
8 obstacles to increased encapsulated beneficial use that
9 the owner or operator encountered over the reporting
10 period.

11 (b) The owner or operator shall post each report on a
12 publicly accessible website that has no registration
13 requirements, and shall submit each such report to the Agency,
14 the Governor, and the General Assembly.

15 Section 50. Corrective action and clean drinking water.

16 (a) An owner or operator of a CCR unit from which CCR is
17 required to be removed under Section 15 shall, within one year
18 after the effective date of this Act, conduct a comprehensive
19 evaluation of the extent of CCR pollution of groundwater,
20 surface water, and soils at any property surrounding the
21 property on which a CCR unit is located.

22 (b) As part of the evaluation of pollution required under
23 subsection (a) and continuing through completion of corrective
24 action under subsection (e), an owner or operator must conduct
25 the following:

1 (1) Groundwater monitoring in accordance with 40
2 C.F.R. 257.90 through 257.95, except that:

3 (A) Wells designated as "background" or
4 "upgradient wells" under 40 C.F.R. 257.91 must not be
5 affected by leakage from any CCR, regardless of whether
6 the CCR is in a CCR unit or not.

7 (B) Wells designated as "downgradient" under 40
8 C.F.R. 257.91 must be sufficient in number and adequate
9 in location to detect leakage from any CCR on the
10 property, regardless of whether the CCR is in a CCR
11 unit or not.

12 (C) Pollutants monitored during assessment
13 monitoring under 40 C.F.R. 257.95 shall be CCR
14 pollutants.

15 (2) Semi-annual monitoring of discharges of CCR
16 pollutants into any adjacent surface waters from the CCR
17 unit, including seeps where groundwater is discharging
18 into surface water.

19 (c) Within 18 months after the effective date of this Act,
20 an owner or operator must develop and submit to the Agency a
21 draft corrective action plan discussing how to decontaminate
22 any groundwater, surface water, or soils affected by leakage or
23 leachate from the CCR unit. The draft corrective action plan
24 must:

25 (1) Describe the findings of the comprehensive
26 evaluation of CCR pollution required under subsection (a).

1 (2) Provide for groundwater and surface water
2 monitoring in accordance with subsection (b).

3 (3) Include a discussion of measures that could be used
4 to decontaminate the site in order to complete corrective
5 action, as specified in subsection (h).

6 (4) Set forth a proposal specifying which corrective
7 action measures the owner or operator proposes to implement
8 in order to complete corrective action as quickly as
9 possible.

10 (d) Within 60 days after receiving a draft corrective
11 action plan, the Agency shall review the draft corrective plan
12 for completeness and to determine if it satisfies compliance
13 with the requirements of subsection (c).

14 If the Agency determines that the draft corrective action
15 plan is complete and satisfies the requirements of subsection
16 (c), the Agency shall, within 90 days after making that
17 determination, issue a proposed corrective action plan.

18 If the Agency determines that the draft corrective action
19 plan is incomplete or does not satisfy the requirements of
20 subsection (c), the applicant shall have no more than 90 days
21 after the Agency's determination to correct any deficiencies
22 identified by the Agency. If the applicant fails to correct
23 those deficiencies within 90 days, the Agency shall have 90
24 additional days to issue a proposed corrective action plan.

25 (e) Together with the draft corrective action plan and any
26 supporting materials, the proposed corrective action plan

1 shall be posted by the Agency on its website and made available
2 for public review, comment, and, if requested, public hearing,
3 consistent with Sections 55, 60, and 65. The applicant shall
4 post the draft corrective action plan, proposed corrective
5 action plan, and supporting materials on a publicly accessible
6 website that has no registration requirements until the Agency
7 has issued a final corrective action plan.

8 (f) Within 120 days after issuing the proposed corrective
9 action plan, the Agency shall issue a final corrective action
10 plan. In determining whether the final corrective action plan
11 requires any changes from the proposed corrective action plan,
12 the Agency shall consider:

13 (1) The draft corrective action plan and all supporting
14 documentation.

15 (2) All written comments received during the public
16 comment period on the proposed corrective action plan.

17 (3) If applicable, testimony from any public hearing
18 held under Section 65.

19 (f-5) No final corrective action plan shall be issued
20 unless it satisfies all applicable requirements of this Act. At
21 minimum, the final corrective action plan must comply with the
22 following:

23 (1) Describe the findings of the comprehensive
24 evaluation of CCR pollution required under subsection (a).

25 (2) Provide for groundwater and surface water
26 monitoring in accordance with subsection (b).

1 (3) Set forth the measures that will be used to
2 decontaminate the site in order to complete corrective
3 action, as specified in subsection (h).

4 (4) Set forth a timeline for completing corrective
5 action, as specified in subsection (h).

6 The Agency shall post the final corrective action plan on
7 its website, and the owner or operator who submitted the draft
8 corrective action plan shall post the final corrective action
9 plan on a publicly accessible website that has no registration
10 requirements.

11 The Agency's approval of the final corrective action plan
12 under this Section shall be considered a final administrative
13 decision subject to judicial review under the Administrative
14 Review Law, and the rules adopted under that Law.

15 (g) Once approved by the Agency following the procedures
16 set forth in this Section, the final corrective action plan
17 shall remain in effect until the corrective action is completed
18 and decontamination is achieved in accordance with subsection
19 (h). The Agency must issue a confirmation of completion of
20 corrective action before financial assurance under Section 75
21 is released.

22 (h) Corrective action is not complete at a CCR unit until
23 each of the following has occurred:

24 (1) All soils contaminated with CCR have been removed
25 and disposed of in a landfill that is safe, modern, and
26 lined.

1 (2) The concentrations of all CCR pollutants in
2 downgradient groundwater monitoring wells at the site that
3 form part of the groundwater monitoring system required
4 under paragraph (1) of subsection (b) comply with the Class
5 1 groundwater standards set forth under Section 620.410 of
6 Title 35 of the Illinois Administrative Code. If no Class I
7 standard has been set for a CCR pollutant, concentrations
8 of all CCR pollutants must comply with the groundwater
9 protection standard set forth by the U.S. Environmental
10 Protection Agency for that pollutant under 40 C.F.R.
11 257.95(h). Compliance occurs when concentrations of CCR
12 pollutants have not exceeded the Class I standards set
13 forth under Section 620.410 of Title 35 of the Illinois
14 Administrative Code or, if applicable, the groundwater
15 protection standard under 40 C.F.R. 257.95(h), for a period
16 of 3 consecutive years using the statistical procedures and
17 performance standards set forth under 40 C.F.R. 257.93(f)
18 and 40 C.F.R. 257.93(g).

19 (i) During the closure process, an owner or operator shall,
20 at the owner or operator's expense if accepted, offer to
21 provide a connection to a municipal water supply. Where a
22 connection to a municipal water supply is not feasible, an
23 owner or operator shall, at the owner or operator's expense if
24 accepted, offer to provide water testing for any residence
25 within 1/2 mile of the CCR unit.

26 If the testing conducted under paragraph (1) of subsection

1 (h) reveals CCR pollutants in excess of Class I groundwater
2 standards set forth under Section 620.410 of Title 35 of the
3 Illinois Administrative Code, the operator shall replace the
4 affected water supply with an alternative source of clean
5 drinking water. Where Class I standards have not been set for a
6 CCR pollutant, the groundwater protection standard shall be
7 that set forth by the U.S. Environmental Protection Agency
8 under 40 C.F.R. 257.95(h).

9 Section 55. Public notice.

10 (a) Within one week of receiving a closure plan, CCR
11 transport permit application, evaluation of alternatives,
12 beneficial use permit application, or draft corrective action
13 plan, the Agency shall post notice of its receipt of that
14 document as well as a copy of the document and supporting
15 materials on its website. The Agency shall also send, via
16 email, notice of receipt of those documents to the State
17 Senator, State Representative, county board chair, mayor, and
18 township supervisor of the location of the CCR unit at issue,
19 as well as to a mailing list of persons seeking to be notified
20 of such documents and subsequent permitting proceedings. An
21 owner or operator that submits a closure plan, CCR transport
22 permit application, evaluation of alternatives, beneficial use
23 permit application, or draft corrective action plan shall
24 publish notice of the submission of that document in a
25 newspaper circulating in the unit of local government where the

1 CCR unit is located.

2 (b) If the Agency issues a draft permit or proposed
3 corrective action plan under this Act, within one week of
4 issuing the draft permit or proposed corrective action plan the
5 Agency shall post notice of issuance of that document on its
6 website, together with a copy of the draft permit or proposed
7 correction action plan, permit application, and all supporting
8 materials. The Agency shall also send, via email, notice of
9 issuance of the draft permit to the State Senator, State
10 Representative, county board chair, mayor, and township
11 supervisor of the location of the CCR unit at issue, as well as
12 to the mailing list referenced in subsection (a). An owner or
13 operator that submits a plan or permit application shall
14 publish notice of any such draft permit or proposed corrective
15 action plan within one week of issuance of the document in a
16 newspaper circulating in the unit of local government where the
17 CCR unit is located.

18 (c) A notice of application, draft permit, or proposed
19 corrective action plan shall include the following:

20 (1) The name of the applicant.

21 (2) The type of document available for review.

22 (3) The name of a person at the Agency available to
23 contact for questions.

24 (4) The dates of the public comment period, where
25 applicable.

26 (5) Directions for interested parties to submit

1 comments and request a public hearing on the document in
2 accordance with Section 65.

3 (6) The Agency's website and, where applicable, the
4 operator's website at which the draft permit or proposed
5 corrective action plan, permit application, and supporting
6 materials shall be made available for review.

7 (7) Directions on how to sign up for the mailing list
8 referenced in subsection (a).

9 (d) If the Agency issues a final permit or plan approval,
10 it shall post notice of issuance of the final permit or plan
11 approval on its website, together with a copy of the permit
12 application and all supporting materials. The Agency shall also
13 send, via email, notice of issuance of the final permit or plan
14 approval to the mailing list referenced in subsection (a).

15 Section 60. Public comment.

16 (a) Public comment periods under this Act shall be 40 days.
17 The Agency may grant extensions of the comment period of no
18 more than 15 days if it receives an extension request and the
19 requester demonstrates a need for the extension.

20 (b) The public comment period on a closure plan, evaluation
21 of benefits, draft CCR transport permit, draft beneficial use
22 permit, or proposed corrective action plan shall begin within 7
23 calendar days after the referenced document is posted on the
24 Agency's website.

25 (c) During a public comment period, any person may submit

1 written comments to the Agency concerning any portion of the
2 draft CCR transport permit, draft beneficial use permit,
3 evaluation of benefits, closure plan, proposed corrective
4 action plan, or associated permit applications or supporting
5 materials, as well as comments concerning any issue relating to
6 the applicant's compliance with the requirements of this Act or
7 any other applicable laws. A person who submits a public
8 comment to the Agency concerning any of the documents
9 referenced in this subsection is a party to the proceeding
10 concerning that document for purposes of the Administrative
11 Review Law.

12 (d) The Agency may ask the applicant to respond to any
13 substantive public comments received during the comment
14 period.

15 Section 65. Public hearing.

16 (a) A person having an interest which is or may be
17 adversely affected by approval of a closure plan, CCR transport
18 permit, beneficial use permit, evaluation of alternatives, or
19 proposed corrective action plan may request a public hearing on
20 that permit, plan, or proposal during the public comment period
21 established under Section 60. The Agency shall hold a public
22 hearing upon request by any such requester.

23 (b) At least 10 calendar days before the date of the public
24 hearing, the Agency shall publish notice of the public hearing
25 on its website and in a newspaper of general circulation

1 published in the unit of local government where the CCR unit at
2 issue is located. The Agency shall also notify, via email,
3 persons on the mailing list referenced in subsection (a) of
4 Section 55 of the hearing. The notice shall contain the
5 location, date, and time the public hearing is to take place,
6 as well as information on whom to contact with questions and
7 instructions on how to sign up to testify at the hearing.

8 (c) The Agency shall hold the public hearing in an easily
9 accessible location as close to the CCR unit as feasible. The
10 hearing shall be held during evening or weekend hours to
11 facilitate attendance. The hearing shall be scheduled for no
12 fewer than 2 hours, although the Agency may end the hearing
13 after one hour if all persons who signed up to testify have
14 already testified.

15 (d) A person who signs up to testify at the public hearing
16 shall be allowed to testify, provided the person attends the
17 hearing. The Agency shall post a sign-up form on its website in
18 which a person seeking to testify shall note his or her name,
19 address, and email address. The Agency shall also have a
20 sign-up form available at the hearing that requests the same
21 information.

22 (e) The public hearing shall serve as an opportunity for
23 the public to voice concerns about a document at issue, as well
24 as an opportunity to ask questions of the Agency or the owner
25 or operator of the CCR unit for which the document was
26 submitted. At least one representative of the Agency and the

1 applicant shall attend the public hearing, and at least 20
2 minutes shall be set aside for the public to ask those
3 representatives questions relevant to the permit or plan at
4 issue. Any person who testifies at a public hearing concerning
5 a permit or plan under this Section is a party to the
6 proceeding concerning that document for purposes of the
7 Administrative Review Law.

8 (f) A complete electronic record or transcript of the
9 hearing and all testimony shall be made by the Agency. The
10 complete record shall be posted on the Agency's website until
11 closure and decontamination of the CCR unit at issue are
12 complete.

13 Section 70. Permit and plan conditions and modifications.

14 (a) Each closure plan, CCR transport permit, beneficial use
15 permit, evaluation of alternatives, and final corrective
16 action plan approved or issued by the Agency under this Act
17 shall require the permittee to comply with all provisions of
18 this Act and all other applicable local, State, and federal
19 laws, rules, and regulations in effect at the time the permit
20 is issued.

21 (b) An approved closure plan issued under this Act shall
22 continue in effect until closure is complete under Section 15.
23 A CCR transport permit issued under this Act shall continue in
24 effect until all CCR has been transported to a landfill or for
25 beneficial reuse. A beneficial use permit issued under Section

1 40 shall continue in effect until all the CCR governed by that
2 permit has been beneficially used in encapsulated beneficial
3 use. A final corrective action plan issued under this Act shall
4 continue in effect until the plan has been achieved and
5 corrective action is complete as specified in Section 50.

6 (c) No closure plan, CCR transport permit, beneficial use
7 permit, or final corrective action plan issued under this Act
8 may be modified without approval of the Agency. If the Agency
9 determines that a proposed modification constitutes a
10 significant deviation from the terms of the original
11 application and permit or plan approval, or presents a serious
12 risk to public health, life, property, aquatic life, or
13 wildlife, the Agency shall provide the public notice required
14 under Section 55 and the opportunities for comment and hearing
15 required under Sections 60 and 65. Any owner or operator
16 seeking a permit modification shall pay a fee in the amount
17 specified in subsection (g) of Section 10 for processing of
18 that modification.

19 Section 75. Financial assurance.

20 (a) The owner or operator of a CCR unit located in Illinois
21 is required to provide and maintain financial assurance for
22 closure and corrective action in accordance with this Act.

23 (b) Financial assurance for closure must be provided and
24 maintained in amounts sufficient to cover all costs associated
25 with closure, including, but not limited to, the following:

1 (1) removal of all CCR from the CCR unit under Section
2 15; and

3 (2) transport of the removed CCR to an approved
4 landfill or for beneficial use, in accordance with Sections
5 30, 35, and 40.

6 Financial assurance for closure must be maintained, and
7 will not be released, until the Agency has confirmed that
8 closure is complete under Section 15.

9 (c) Financial assurance for corrective action must be
10 provided and maintained in amounts sufficient to cover all
11 costs associated with complying with Section 50, including
12 undertaking the comprehensive evaluation of pollution,
13 conducting groundwater and surface water monitoring, and
14 developing and implementing the final corrective action plan.
15 Financial assurance for corrective action must be maintained,
16 and will not be released, until the Agency has confirmed the
17 completion of correction action under Section 50.

18 (d) To ensure financial assurance is provided in adequate
19 amounts, an owner or operator of a CCR unit shall submit to the
20 Agency the following:

21 (1) An initial cost estimate for closure, consistent
22 with subsection (b), within 6 months after the effective
23 date of this Act.

24 (2) Annual revised cost estimates for closure based on
25 any changed circumstances or information available to the
26 owner or operator, taking into account inflation.

1 (3) An initial cost estimate for corrective action
2 within 3 months after the Agency approves any final
3 corrective action plan required under Section 50.

4 (4) Annual revised cost estimates for corrective
5 action based on any changed circumstances or information
6 available to the owner or operator, taking into account
7 inflation.

8 (e) Acceptable financial assurance mechanisms for use
9 under this Section include, but are not limited to, the
10 following:

11 (1) cash, certified check, or money order payable to a
12 bank account set up by the Agency for the sole purpose of
13 holding financial assurance funds under this Act;

14 (2) certificate of deposit;

15 (3) surety bond;

16 (4) irrevocable letter of credit; or

17 (5) escrow account.

18 Neither a corporate guarantee nor a corporate financial
19 test may be used to satisfy the requirements of this Section.

20 (f) The Agency shall adopt rules to further clarify and
21 specify requirements for financial assurance consistent with
22 this Act.

23 (g) If, after notice and hearing, the Agency determines
24 that an owner or operator of a CCR unit is not removing CCR
25 from a CCR unit as required under Section 15, the permittee's
26 financial assurance for closure shall then be forfeited.

1 Forfeiture under this subsection shall not limit any duty of
2 the permittee to mitigate or remediate harms or foreclose
3 enforcement by the Agency. Forfeiture of financial assurance
4 for closure does not count toward any penalty imposed on the
5 owner or operator of the CCR unit.

6 If, after notice and hearing, the Agency determines that an
7 owner or operator of a CCR unit is not implementing a final
8 corrective action plan as required under Section 50, the
9 permittee's financial assurance for corrective action shall
10 then be forfeited. Forfeiture under this subsection shall not
11 limit any duty of the permittee to mitigate or remediate harms
12 or foreclose enforcement by the Agency. Forfeiture of financial
13 assurance for corrective action does not count toward any
14 penalty imposed on the owner or operator of the CCR unit.

15 When any financial assurance is forfeited under the
16 provisions of this Act or rules adopted under this Act, the
17 Agency shall collect the forfeiture without delay. All
18 forfeitures shall be deposited in a fund set up by the Agency
19 to be used, as necessary, to mitigate or remediate violations
20 of this Act or rules adopted under this Act.

21 Section 80. Elimination of wet or unlined CCR disposal.
22 Beginning 18 months after the effective date of this Act, no
23 CCR generated in Illinois may be treated, stored, or disposed
24 of in a CCR surface impoundment or unlined CCR landfill.

1 Section 85. Violations; penalties.

2 (a) Any person who violates this Act or a permit, plan, or
3 rule issued, approved, or adopted under this Act commits open
4 dumping as defined in the Illinois Environmental Protection Act
5 and is subject to administrative penalties, civil liability,
6 or, where appropriate, criminal prosecution.

7 (b) The Agency shall issue rules specifying the
8 administrative or civil penalties or criminal fines to which a
9 person in violation of this Act may be subject, which shall be
10 consistent with penalties, fines, and liability for open
11 dumping violations under the Illinois Environmental Protection
12 Act.

13 (c) Any person who knowingly makes a false, fictitious, or
14 fraudulent material statement, orally or in writing, to the
15 Agency that is related to or required by this Act, a rule
16 adopted under this Act, or any permit, term, or condition
17 thereof, commits a Class 4 felony, and each such statement or
18 writing shall be considered a separate violation.

19 (d) The State's Attorney of the county in which the
20 violation occurred, or the Attorney General, may, at the
21 request of the Agency or on his or her own motion, institute a
22 civil action for an injunction, prohibitory or mandatory, to
23 restrain violations of this Act, a rule or regulation adopted
24 under this Act, a permit or term or condition of the permit, or
25 to require other civil or criminal actions as may be necessary
26 to address violations of this Act, any rule adopted under this

1 Act, or a permit or term or condition of a permit issued under
2 this Act.

3 (e) Any criminal action provided for under this Section
4 shall be brought by the State's Attorney of the county in which
5 the violation occurred or by the Attorney General and shall be
6 conducted in accordance with the applicable provision of the
7 Code of Criminal Procedure of 1963. The limitations period for
8 violations of this Section shall not begin to run until the
9 offense is discovered by or reported to a State or local agency
10 having authority to investigate violations of this Act.

11 (f) The State's Attorney of the county in which the
12 violation occurred or the Attorney General shall bring actions
13 under this Section in the name of the People of the State of
14 Illinois. Without limiting any other authority that may exist
15 for the awarding of attorney's fees and costs, a court of
16 competent jurisdiction may award costs and reasonable
17 attorney's fees, including the reasonable costs of expert
18 witnesses and consultants, to the State's Attorney or the
19 Attorney General in a case where he or she has prevailed
20 against a person who has committed a knowing or repeated
21 violation of this Act, any rule adopted under this Act, or a
22 permit or term or condition of a permit issued under this Act.

23 (g) Any person with an interest that is or may be adversely
24 affected by a violation of this Act may institute a civil
25 action for an injunction to restrain a violation of this Act,
26 any rule or regulation adopted under this Act, a permit issued

1 or plan approved under this Act, or term or condition of a
2 permit issued under this Act, or for civil penalties for
3 violations of this Act, any rule adopted under this Act, a
4 permit issued under this Act or term or condition of a permit
5 issued under this Act. Any civil action shall be brought before
6 the circuit court of the county in which the violation occurred
7 or in the circuit court of Sangamon County. Venue shall be
8 considered proper in either court. Except as otherwise provided
9 in this Act, all civil penalties collected shall be deposited
10 in an account set up by the Agency within the Environmental
11 Protection Trust Fund for addressing violations of this Act.

12 (h) All final orders imposing civil penalties under this
13 Section shall prescribe the time for payment of those
14 penalties. If any penalty is not paid within the time
15 prescribed, interest on the penalty at the rate set forth in
16 subsection (a) of Section 1003 of the Illinois Income Tax Act
17 shall be paid for the period from the date the payment is due
18 until the date the payment is received. However, if the time
19 for payment is stayed during the pendency of an appeal,
20 interest shall not accrue during the stay.

21 Section 90. Applicable federal, State, and local laws.

22 (a) Compliance with this Act does not relieve
23 responsibility for compliance with the Illinois Environmental
24 Protection Act and other applicable federal, State, and local
25 laws. This Act is intended to be more protective than federal

1 regulations and should be construed accordingly.

2 (b) Nothing in this Act shall be construed to preempt any
3 local laws that may otherwise operate to affect, govern, limit,
4 or prohibit disposal of CCR otherwise allowed under this Act.

5 Section 900. The Environmental Protection Act is amended by
6 changing Section 3.135 as follows:

7 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

8 Sec. 3.135. Coal combustion by-product; CCB.

9 (a) "Coal combustion by-product" (CCB) means coal
10 combustion waste when used beneficially in any of the following
11 ways:

12 (1) The extraction or recovery of material compounds
13 contained within CCB.

14 (2) The use of CCB as a raw ingredient or mineral
15 filler in the manufacture of the following commercial
16 products: cement; ~~concrete and concrete mortars;~~
17 cementitious products including block, pipe and
18 precast/prestressed components; asphalt or cementitious
19 roofing products; ~~plastic products including pipes and~~
20 ~~fittings; paints and metal alloys;~~ kiln fired products
21 including bricks, blocks, and tiles; ~~abrasive media;~~
22 gypsum wallboard; asphaltic concrete, or asphalt based
23 paving material.

24 (3) (Blank). ~~CCB used (A) in accordance with the~~

1 ~~Illinois Department of Transportation ("IDOT") standard~~
2 ~~specifications and subsection (a-5) of this Section or (B)~~
3 ~~under the approval of the Department of Transportation for~~
4 ~~IDOT projects.~~

5 (4) (Blank). ~~Bottom ash used as antiskid material,~~
6 ~~athletic tracks, or foot paths.~~

7 (5) (Blank). ~~Use in the stabilization or modification~~
8 ~~of soils providing the CCB meets the IDOT specifications~~
9 ~~for soil modifiers.~~

10 (6) (Blank). ~~CCB used as a functionally equivalent~~
11 ~~substitute for agricultural lime as a soil conditioner.~~

12 (6.5) CCB that is a synthetic gypsum that:

13 (A) has a calcium sulfate dihydrate content
14 greater than 90%, by dry weight, and is generated by the
15 lime or limestone forced oxidation process;

16 (B) is registered with the Illinois Department of
17 Agriculture as a fertilizer or soil amendment and is used
18 as a fertilizer or soil amendment;

19 (C) is a functionally equivalent substitute for
20 mined gypsum (calcium sulfate dihydrate) used as a
21 fertilizer or soil amendment;

22 (D) is used in accordance with, and applied at a
23 rate consistent with, documented recommendations of a
24 qualified agricultural professional or institution,
25 including, but not limited to any of the following:
26 certified crop adviser, agronomist, university researcher,

1 federal Natural Resources Conservation Service
2 Conservation Practice Standard regarding the amendment of
3 soil properties with gypsum, or State-approved nutrient
4 management plan; but in no case is applied at a rate
5 greater than 5 dry tons per acre per year; and

6 (E) has not been mixed with any waste.

7 (7) (Blank). ~~Bottom ash used in non IDOT pavement~~
8 ~~sub base or base, pipe bedding, or foundation backfill.~~

9 (8) (Blank). ~~Structural fill, designed and constructed~~
10 ~~according to ASTM standard E2277-03 or Illinois Department~~
11 ~~of Transportation specifications, when used in an~~
12 ~~engineered application or combined with cement, sand, or~~
13 ~~water to produce a controlled strength fill material and~~
14 ~~covered with 12 inches of soil unless infiltration is~~
15 ~~prevented by the material itself or other cover material.~~

16 (9) (Blank). ~~Mine subsidence, mine fire control, mine~~
17 ~~sealing, and mine reclamation.~~

18 (a-5) (Blank). ~~Except to the extent that the uses are~~
19 ~~otherwise authorized by law without such restrictions, the uses~~
20 ~~specified in items (a) (3) (A) and (a) (7) through (9) shall be~~
21 ~~subject to the following conditions:~~

22 ~~(A) CCB shall not have been mixed with hazardous waste~~
23 ~~prior to use.~~

24 ~~(B) CCB shall not exceed Class I Groundwater Standards~~
25 ~~for metals when tested utilizing test method ASTM D3987-85.~~
26 ~~The sample or samples tested shall be representative of the~~

1 ~~CCB being considered for use.~~

2 ~~(C) Unless otherwise exempted, users of CCB for the~~
3 ~~purposes described in items (a) (3) (A) and (a) (7) through~~
4 ~~(9) of this Section shall provide notification to the~~
5 ~~Agency for each project utilizing CCB documenting the~~
6 ~~quantity of CCB utilized and certification of compliance~~
7 ~~with conditions (A) and (B) of this subsection.~~
8 ~~Notification shall not be required for users of CCB for~~
9 ~~purposes described in items (a) (1), (a) (2), (a) (3) (B),~~
10 ~~(a) (4), (a) (5) and (a) (6) of this Section, or as required~~
11 ~~specifically under a beneficial use determination as~~
12 ~~provided under this Section, or pavement base, parking lot~~
13 ~~base, or building base projects utilizing less than 10,000~~
14 ~~tons, flowable fill/grout projects utilizing less than~~
15 ~~1,000 cubic yards or other applications utilizing less than~~
16 ~~100 tons.~~

17 ~~(D) Fly ash shall be managed in a manner that minimizes~~
18 ~~the generation of airborne particles and dust using~~
19 ~~techniques such as moisture conditioning, granulating,~~
20 ~~inground application, or other demonstrated method.~~

21 ~~(E) CCB is not to be accumulated speculatively. CCB is~~
22 ~~not accumulated speculatively if during the calendar year,~~
23 ~~the CCB used is equal to 75% of the CCB by weight or volume~~
24 ~~accumulated at the beginning of the period.~~

25 ~~(F) CCB shall include any prescribed mixture of fly~~
26 ~~ash, bottom ash, boiler slag, flue gas desulfurization~~

1 ~~scrubber sludge, fluidized bed combustion ash, and stoker~~
2 ~~boiler ash and shall be tested as intended for use.~~

3 (b) (Blank).

4 (c) Users of CCB for the purposes described in this Section
5 shall provide notification to the Agency for each project
6 utilizing CCB documenting the quantity of CCB utilized.

7 (d) Fly ash shall be managed in a manner that minimizes the
8 generation of airborne particles and dust using techniques such
9 as moisture conditioning, granulating, inground application,
10 or other demonstrated method.

11 (e) CCB is not to be accumulated speculatively. CCB is not
12 accumulated speculatively if during the calendar year, the CCB
13 used is equal to 75% of the CCB by weight or volume accumulated
14 at the beginning of the period.

15 (f) CCB shall include any prescribed mixture of fly ash,
16 bottom ash, boiler slag, flue gas desulfurization scrubber
17 sludge, fluidized bed combustion ash, and stoker boiler ash and
18 shall be tested as intended for use.

19 ~~To encourage and promote the utilization of CCB in~~
20 ~~productive and beneficial applications, upon request by the~~
21 ~~applicant, the Agency shall make a written beneficial use~~
22 ~~determination that coal combustion waste is CCB when used in a~~
23 ~~manner other than those uses specified in subsection (a) of~~
24 ~~this Section if the applicant demonstrates that use of the~~
25 ~~coal combustion waste satisfies all of the following criteria:~~
26 ~~the use will not cause, threaten, or allow the discharge of any~~

1 ~~contaminant into the environment; the use will otherwise~~
2 ~~protect human health and safety and the environment; and the~~
3 ~~use constitutes a legitimate use of the coal combustion waste~~
4 ~~as an ingredient or raw material that is an effective~~
5 ~~substitute for an analogous ingredient or raw material.~~

6 ~~The Agency's beneficial use determinations may allow the~~
7 ~~uses set forth in items (a) (3) (A) and (a) (7) through (9) of~~
8 ~~this Section without the CCB being subject to the restrictions~~
9 ~~set forth in subdivisions (a) (5) (B) and (a) (5) (E) of this~~
10 ~~Section.~~

11 ~~Within 90 days after the receipt of an application for a~~
12 ~~beneficial use determination under this subsection (b), the~~
13 ~~Agency shall, in writing, approve, disapprove, or approve with~~
14 ~~conditions the beneficial use. Any disapproval or approval with~~
15 ~~conditions shall include the Agency's reasons for the~~
16 ~~disapproval or conditions. Failure of the Agency to issue a~~
17 ~~decision within 90 days shall constitute disapproval of the~~
18 ~~beneficial use request. These beneficial use determinations~~
19 ~~are subject to review under Section 40 of this Act.~~

20 ~~Any approval of a beneficial use under this subsection (b)~~
21 ~~shall become effective upon the date of the Agency's written~~
22 ~~decision and remain in effect for a period of 5 years. If an~~
23 ~~applicant desires to continue a beneficial use after the~~
24 ~~expiration of the 5 year period, the applicant must submit an~~
25 ~~application for renewal no later than 90 days prior to the~~
26 ~~expiration. The beneficial use approval shall be automatically~~

1 ~~extended unless denied by the Agency in writing with the~~
2 ~~Agency's reasons for disapproval, or unless the Agency has~~
3 ~~requested an extension for review, in which case the use will~~
4 ~~continue to be allowed until an Agency determination is made.~~

5 ~~Coal combustion waste for which a beneficial use is~~
6 ~~approved pursuant to this subsection (b) shall be considered~~
7 ~~CCB during the effective period of the approval, as long as it~~
8 ~~is used in accordance with the approval and any conditions.~~

9 ~~Notwithstanding the other provisions of this subsection~~
10 ~~(b), written beneficial use determination applications for the~~
11 ~~use of CCB at sites governed by the federal Surface Mining~~
12 ~~Control and Reclamation Act of 1977 (P.L. 95-87) or the rules~~
13 ~~and regulations thereunder, or by any law or rule or regulation~~
14 ~~adopted by the State of Illinois pursuant thereto, shall be~~
15 ~~reviewed and approved by the Office of Mines and Minerals~~
16 ~~within the Department of Natural Resources pursuant to 62 Ill.~~
17 ~~Adm. Code §§ 1700-1850. Further, appeals of those~~
18 ~~determinations shall be made pursuant to the Illinois~~
19 ~~Administrative Review Law.~~

20 ~~The Board shall adopt rules establishing standards and~~
21 ~~procedures for the Agency's issuance of beneficial use~~
22 ~~determinations under this subsection (b). The Board rules may~~
23 ~~also, but are not required to, include standards and procedures~~
24 ~~for the revocation of the beneficial use determinations. Prior~~
25 ~~to the effective date of Board rules adopted under this~~
26 ~~subsection (b), the Agency is authorized to make beneficial use~~

1 ~~determinations in accordance with this subsection (b).~~

2 (g) The Agency is authorized to prepare and distribute
3 guidance documents relating to its administration of this
4 Section. ~~Guidance documents prepared under this subsection are~~
5 ~~not rules for the purposes of the Illinois Administrative~~
6 ~~Procedure Act.~~

7 (Source: P.A. 99-20, eff. 7-10-15.)

8 Section 997. Severability. The provisions of this Act are
9 severable under Section 1.31 of the Statute on Statutes.

10 Section 999. Effective date. This Act takes effect upon
11 becoming law."