



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

SB1436

Introduced 1/31/2025, by Sen. Adriane Johnson

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.59  
415 ILCS 5/22.59a new

Amends the Environmental Protection Act. Provides that owners and operators of CCR surface impoundments at electric generating plants that are within 4,000 feet of Lake Michigan shall close the CCR surface impoundment by removal and off-site disposal, pursuant to specified provisions and requirements. In additional provisions, requires an owner or operator of an electric generating plant located within 4,000 feet of Lake Michigan that generates or has generated CCR that is not disposed of, treated, stored, or abandoned in a CCR surface impoundment to remove from the owner's or operator's site, for off-site disposal, all CCR generated by the facility that is not disposed of, treated, stored, or abandoned in a CCR surface impoundment and remediate all soil and groundwater impacted by the CCR, in accordance with specified requirements. Requires owners or operators to submit specified plans and reports to the Environmental Protection Agency. Provides that an owner or operator shall post with the Agency a performance bond or other security for the purpose of ensuring removal and remediation in accordance with the provisions. Provides that the Agency may enter into such contracts and agreements as it deems necessary to carry out the purposes of the provisions. Provides that neither the State, nor the Director of the Agency, nor any State employee shall be liable for any damages or injuries arising out of or resulting from any action taken under the provisions. Contains other provisions. Contains a severability provision. Effective immediately.

LRB104 08163 BDA 18211 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 changing Section 22.59 and by adding Section 22.59a as  
6 follows:

7 (415 ILCS 5/22.59)

8 Sec. 22.59. CCR surface impoundments.

9 (a) The General Assembly finds that:

10 (1) the State of Illinois has a long-standing policy  
11 to restore, protect, and enhance the environment,  
12 including the purity of the air, land, and waters,  
13 including groundwaters, of this State;

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

16 (3) CCR generated by the electric generating industry  
17 has caused groundwater contamination and other forms of  
18 pollution at active and inactive plants throughout this  
19 State;

20 (4) environmental laws should be supplemented to  
21 ensure consistent, responsible regulation of all existing  
22 CCR surface impoundments; ~~and~~

23 (5) meaningful participation of State residents,

1 especially vulnerable populations who may be affected by  
2 regulatory actions, is critical to ensure that  
3 environmental justice considerations are incorporated in  
4 the development of, decision-making related to, and  
5 implementation of environmental laws and rulemaking that  
6 protects and improves the well-being of communities in  
7 this State that bear disproportionate burdens imposed by  
8 environmental pollution; ~~and-~~

9 (6) the State recognizes the critical need to  
10 zealously guard and vigilantly protect the water quality  
11 and public uses of public bodies of water throughout the  
12 State, including Lake Michigan.

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

19 The provisions of this Section shall be liberally  
20 construed to carry out the purposes of this Section.

21 (b) No person shall:

22 (1) cause or allow the discharge of any contaminants  
23 from a CCR surface impoundment into the environment so as  
24 to cause, directly or indirectly, a violation of this  
25 Section or any regulations or standards adopted by the  
26 Board under this Section, either alone or in combination

1 with contaminants from other sources;

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

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

13 (4) construct, install, modify, or close a CCR surface  
14 impoundment in accordance with a permit issued under this  
15 Act without certifying to the Agency that all contractors,  
16 subcontractors, and installers utilized to construct,  
17 install, modify, or close a CCR surface impoundment are  
18 participants in:

19 (A) a training program that is approved by and  
20 registered with the United States Department of  
21 Labor's Employment and Training Administration and  
22 that includes instruction in erosion control and  
23 environmental remediation; and

24 (B) a training program that is approved by and  
25 registered with the United States Department of  
26 Labor's Employment and Training Administration and

1           that includes instruction in the operation of heavy  
2           equipment and excavation.

3           Nothing in this paragraph (4) shall be construed to  
4           require providers of construction-related professional  
5           services to participate in a training program approved by  
6           and registered with the United States Department of  
7           Labor's Employment and Training Administration.

8           In this paragraph (4), "construction-related  
9           professional services" includes, but is not limited to,  
10          those services within the scope of: (i) the practice of  
11          architecture as regulated under the Illinois Architecture  
12          Practice Act of 1989; (ii) professional engineering as  
13          defined in Section 4 of the Professional Engineering  
14          Practice Act of 1989; (iii) the practice of a structural  
15          engineer as defined in Section 4 of the Structural  
16          Engineering Practice Act of 1989; or (iv) land surveying  
17          under the Illinois Professional Land Surveyor Act of 1989.

18          (c) (Blank).

19          (d) Before commencing closure of a CCR surface  
20          impoundment, in accordance with Board rules, the owner of a  
21          CCR surface impoundment must submit to the Agency for approval  
22          a closure alternatives analysis that analyzes all closure  
23          methods being considered and that otherwise satisfies all  
24          closure requirements adopted by the Board under this Act.  
25          Complete removal of CCR, as specified by the Board's rules,  
26          from the CCR surface impoundment must be considered and

1 analyzed. Section 3.405 does not apply to the Board's rules  
2 specifying complete removal of CCR. The selected closure  
3 method must ensure compliance with regulations adopted by the  
4 Board pursuant to this Section.

5 (e) Owners or operators of CCR surface impoundments who  
6 have submitted a closure plan to the Agency before May 1, 2019,  
7 and who have completed closure prior to 24 months after July  
8 30, 2019 (the effective date of Public Act 101-171) shall not  
9 be required to obtain a construction permit for the surface  
10 impoundment closure under this Section.

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

23 (1) The cost estimate for the post-closure care of a  
24 CCR surface impoundment shall be calculated using a  
25 30-year post-closure care period or such longer period as  
26 may be approved by the Agency under Board or federal

1 rules.

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

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

14 (g) The Board shall adopt rules establishing construction  
15 permit requirements, operating permit requirements, design  
16 standards, reporting, financial assurance, and closure and  
17 post-closure care requirements for CCR surface impoundments.  
18 Not later than 8 months after July 30, 2019 (the effective date  
19 of Public Act 101-171) the Agency shall propose, and not later  
20 than one year after receipt of the Agency's proposal the Board  
21 shall adopt, rules under this Section. The Board shall not be  
22 deemed in noncompliance with the rulemaking deadline due to  
23 delays in adopting rules as a result of the Joint Committee on  
24 Administrative Rules oversight process. The rules must, at a  
25 minimum:

26 (1) be at least as protective and comprehensive as the

1 federal regulations or amendments thereto promulgated by  
2 the Administrator of the United States Environmental  
3 Protection Agency in Subpart D of 40 CFR 257 governing CCR  
4 surface impoundments;

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

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

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

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

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

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

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

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

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

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

26          (h) Any owner of a CCR surface impoundment that generates

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

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

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

12 (1) An initial fee to the Agency within 6 months after  
13 July 30, 2019 (the effective date of Public Act 101-171)  
14 of:

15 \$50,000 for each closed CCR surface impoundment;

16 and

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

19 (2) Annual fees to the Agency, beginning on July 1,  
20 2020, of:

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

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

26 (k) All fees collected by the Agency under subsection (j)

1 shall be deposited into the Environmental Protection Permit  
2 and Inspection Fund.

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

15 (m) The provisions of this Section shall apply, without  
16 limitation, to all existing CCR surface impoundments and any  
17 CCR surface impoundments constructed after July 30, 2019 (the  
18 effective date of Public Act 101-171), except to the extent  
19 prohibited by the Illinois or United States Constitutions.

20 (n) This subsection only applies to an owner or operator  
21 of a facility that (i) has at least one CCR surface impoundment  
22 and (ii) is an electric generating plant located within 4,000  
23 feet of Lake Michigan.

24 CCR in all CCR surface impoundments subject to this  
25 subsection, including CCR surface impoundments for which an  
26 adjusted standard has been sought pursuant to Section 28.1,

1 shall be closed by removal and off-site disposal, pursuant to  
2 this Section, applicable Illinois Pollution Control Board  
3 regulations, and the following provisions:

4 (1) CCR surface impoundments under this subsection are  
5 not subject to the closure alternative analysis  
6 requirement under subsection (d).

7 (2) Notwithstanding any other requirements of this  
8 Section or Board rules or regulations, applications for  
9 closure construction subject to this subsection shall be  
10 submitted to the Agency within one year after the  
11 effective date of this amendatory Act of the 104th General  
12 Assembly. Application requirements and permit issuance  
13 procedures shall follow those adopted by the Illinois  
14 Pollution Control Board under this Section.

15 (3) If the owner or operator of any CCR surface  
16 impoundment subject to this subsection has submitted a  
17 construction permit application to the Agency to close a  
18 subject CCR surface impoundment by any method other than  
19 removal under Part 845 of Title 35 of the Illinois  
20 Administrative Code, the owner or operator shall submit an  
21 amended construction permit application that complies with  
22 the requirements of this Section within one year after the  
23 effective date of this amendatory Act of the 104th General  
24 Assembly.

25 (4) Any permit issued by the Agency allowing a CCR  
26 surface impoundment subject to this subsection to close in

1 place shall be declared void. The Agency shall not issue  
2 any operating permit or construction permit allowing  
3 closure in place to the owner or operator of any CCR  
4 surface impoundment subject to this subsection.

5 (Source: P.A. 102-16, eff. 6-17-21; 102-137, eff. 7-23-21;  
6 102-309, eff. 8-6-21; 102-558, eff. 8-20-21; 102-662, eff.  
7 9-15-21; 102-813, eff. 5-13-22; 103-154, eff. 6-30-23.)

8 (415 ILCS 5/22.59a new)

9 Sec. 22.59a. Great Lakes CCR protection.

10 (a) The General Assembly finds that:

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

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

23 (3) The purpose of this Section is to protect Lake  
24 Michigan against further contamination from CCR.

25 (b) This Section only applies to an owner or operator of a

1 facility that (i) generates or has generated CCR that is not  
2 disposed of, treated, stored, or abandoned in a CCR surface  
3 impoundment and (ii) is an electric generating plant located  
4 within 4,000 feet of Lake Michigan.

5 (c) An owner or operator of a facility that is subject to  
6 this Section shall remove from the owner's or operator's site,  
7 for off-site disposal, all CCR generated by the facility that  
8 is not disposed of, treated, stored, or abandoned in a CCR  
9 surface impoundment, and remediate all soil and groundwater  
10 impacted by that CCR, in accordance with the following:

11 (1) Within one year after the effective date of this  
12 amendatory Act of the 104th General Assembly, the owner or  
13 operator shall conduct a site investigation and submit to  
14 the Agency a site investigation report that identifies the  
15 full extent of CCR at the site. The investigation and  
16 report shall also identify the full extent of soil and  
17 groundwater that, as a result of the CCR, exceeds the most  
18 stringent remediation objectives adopted under Title XVII  
19 of this Act.

20 (A) Within 5 days after submitting the report to  
21 the Agency, the owner or operator shall post public  
22 notice of the report's submission (i) on the owner or  
23 operator's website, along with a copy of the report  
24 for public viewing, and (ii) in a newspaper of general  
25 distribution in the municipality where the applicable  
26 electric generating plant is located. The notice shall

1 be provided in English and Spanish and shall inform  
2 the public of their right to submit comments on the  
3 report to the Agency within 30 days after the date the  
4 notice is published in the newspaper. The owner or  
5 operator shall also maintain a copy of the report in a  
6 public repository in the municipality where the  
7 applicable electric generating plant is located for  
8 public viewing, which shall be identified in the  
9 public notice.

10 (B) Within 90 days after receipt of the site  
11 investigation report, the Agency shall determine  
12 whether the investigation and report comply with this  
13 paragraph (1). In making its determination, the Agency  
14 shall consider all public comments submitted within 30  
15 days after the date of the newspaper notice required  
16 under subparagraph (A).

17 (C) If the Agency determines the investigation and  
18 report comply with this paragraph (1), it shall notify  
19 the owner or operator in writing of its determination.  
20 The owner or operator shall then submit a CCR removal  
21 and remediation plan in accordance with paragraph (2).

22 (D) If the Agency determines the investigation or  
23 report does not comply with this paragraph (1), it  
24 shall notify the owner or operator in writing of its  
25 determination and the reasons for the determination.  
26 The owner or operator shall then have 6 months to (i)

1 perform additional investigation or correct any  
2 deficiencies and (ii) submit an amended site  
3 investigation report to the Agency, which shall be  
4 subject to the submission and review procedures set  
5 forth in this paragraph (1).

6 (2) Within 6 months after the Agency's approval of the  
7 site investigation report, the owner or operator shall  
8 submit to the Agency a CCR removal and remediation plan  
9 that will achieve the removal of all CCR at the site and  
10 the remediation of all soil and groundwater that, as a  
11 result of the CCR, exceeds the most stringent remediation  
12 objectives adopted under Title XVII of this Act. The plan  
13 shall include a schedule for completion of its major  
14 milestones, along with the following:

15 (A) An analysis of the modes for transporting the  
16 removed CCR off-site, including by rail, barge,  
17 low-polluting trucks, or a combination of these  
18 transportation modes.

19 (B) Removal of CCR consistent with 35 Ill. Adm.  
20 Code 845.740 and 845.760.

21 (C) Within 5 days after submitting the plan to the  
22 Agency, the owner or operator shall post public notice  
23 of the plan's submission (i) on the owner or  
24 operator's website, along with a copy of the plan for  
25 public viewing, and (ii) in a newspaper of general  
26 distribution in the municipality where the applicable

1 electric generating plant is located. The notice shall  
2 be provided in English and Spanish and shall inform  
3 the public of their right to submit comments on the  
4 plan to the Agency within 30 days after the date the  
5 notice is published in the newspaper. The owner or  
6 operator shall also maintain a copy of the report in a  
7 public repository in the municipality where the  
8 applicable electric generating plant is located for  
9 public viewing, which shall be identified in the  
10 public notice.

11 (D) Within 90 days after receipt of the plan, the  
12 Agency shall determine whether the plan complies with  
13 this paragraph (2). In making its determination, the  
14 Agency shall consider all public comments submitted  
15 within 30 days after the date of the newspaper notice  
16 required under subparagraph (C).

17 (E) If the Agency determines the plan, with or  
18 without Agency modifications, complies with this  
19 paragraph (2), it shall notify the owner or operator  
20 in writing of its determination. The owner or operator  
21 shall then proceed with implementation of the plan,  
22 including any modifications by the Agency, and  
23 submission of a removal and remediation report in  
24 accordance with paragraph (3).

25 (F) If the Agency determines the investigation or  
26 report does not comply with this paragraph (2), it

1 shall notify the owner or operator in writing of its  
2 determination and the reasons for the determination.  
3 The owner or operator shall then have 60 days to submit  
4 an amended plan to the Agency, which shall be subject  
5 to the submission and review procedures set forth in  
6 subparagraphs (C) and (D).

7 (3) In accordance with a schedule approved by the  
8 Agency, the owner or operator shall implement the  
9 remediation plan and provide the Agency with updates on  
10 the plan's implementation. Upon completion of the plan,  
11 the owner or operator shall submit a completion report to  
12 the Agency.

13 (A) Within 5 days after submitting an update or  
14 the completion report to the Agency on plan  
15 implementation, the owner or operator shall post  
16 public notice of the report's submission (i) on the  
17 owner or operator's website, along with a copy of the  
18 report for public viewing, and (ii) in a newspaper of  
19 general distribution in the municipality where the  
20 applicable electric generating plant is located. The  
21 notice shall be provided in English and Spanish and  
22 shall inform the public of their right to submit  
23 comments on the report to the Agency within 30 days  
24 after the date the notice is published in the  
25 newspaper. The owner or operator shall also maintain a  
26 copy of the report in a public repository in the

1 municipality where the applicable electric generating  
2 plant is located for public viewing, which shall be  
3 identified in the public notice.

4 (B) Within 90 days after receipt of the completion  
5 report, the Agency shall determine whether the removal  
6 and remediation has resulted in (i) the removal of all  
7 CCR at the site and (ii) the remediation of all soil  
8 and groundwater that, as a result of the CCR, exceeds  
9 the most stringent remediation objectives adopted  
10 under Title XVII of this Act. In making its  
11 determination, the Agency shall consider all public  
12 comments submitted within 30 days after the date of  
13 the newspaper notice required under subparagraph (A).

14 (C) If the Agency determines that the required  
15 removal and remediation is complete, it shall notify  
16 the owner or operator in writing of its determination.

17 (D) If the Agency determines that the required  
18 removal and remediation is not complete, it shall  
19 notify the owner or operator in writing of its  
20 determination and the reasons for the determination.  
21 The owner or operator shall then continue removal or  
22 remediation, and submit reports to the Agency, in  
23 accordance with a schedule established by the Agency.  
24 Reports shall be subject to the submission and review  
25 procedures set forth in subparagraphs (A) and (B). If  
26 necessary, the owner or operator may amend the plan

1           and submit it for review and approval in accordance  
2           with paragraph (2).

3           (d) Except for the State, its agencies and institutions, a  
4           unit of local government, or a not-for-profit electric  
5           cooperative as defined in Section 3.4 of the Electric Supplier  
6           Act, an owner or operator shall post with the Agency a  
7           performance bond or other security for the purpose of ensuring  
8           removal and remediation in accordance with this Section. The  
9           only acceptable forms of financial assurance are the forms of  
10           financial assurance that are acceptable for CCR surface  
11           impoundments under Section 22.59.

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

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

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

25           Section 99. Effective date. This Act takes effect upon

1 becoming law.