



Rep. Carol Ammons

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10200HB3783ham001

LRB102 15016 CPF 25065 a

1 AMENDMENT TO HOUSE BILL 3783

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3783 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 changing Section 22.59 as follows:

6 (415 ILCS 5/22.59)

7 Sec. 22.59. CCR surface impoundments.

8 (a) The General Assembly finds that:

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

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

15 (3) CCR generated by the electric generating industry  
16 has caused groundwater contamination and other forms of

1 pollution at active and inactive plants throughout this  
2 State;

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

6 (5) meaningful participation of State residents,  
7 especially vulnerable populations who may be affected by  
8 regulatory actions, is critical to ensure that  
9 environmental justice considerations are incorporated in  
10 the development of, decision-making related to, and  
11 implementation of environmental laws and rulemaking that  
12 protects and improves the well-being of communities in  
13 this State that bear disproportionate burdens imposed by  
14 environmental pollution.

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

21 The provisions of this Section shall be liberally  
22 construed to carry out the purposes of this Section.

23 (b) No person shall:

24 (1) cause or allow the discharge of any contaminants  
25 from a CCR surface impoundment into the environment so as  
26 to cause, directly or indirectly, a violation of this

1 Section or any regulations or standards adopted by the  
2 Board under this Section, either alone or in combination  
3 with contaminants from other sources;

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

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

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

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

26 (B) a training program that is approved by and

1           registered with the United States Department of  
2           Labor's Employment and Training Administration and  
3           that includes instruction in the operation of heavy  
4           equipment and excavation.

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

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

20          (c) For purposes of this Section, a permit issued by the  
21          Administrator of the United States Environmental Protection  
22          Agency under Section 4005 of the federal Resource Conservation  
23          and Recovery Act, shall be deemed to be a permit under this  
24          Section and subsection (y) of Section 39.

25          (d) Before commencing closure of a CCR surface  
26          impoundment, in accordance with Board rules, the owner of a

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

11 (e) Owners or operators of CCR surface impoundments who  
12 have submitted a closure plan to the Agency before May 1, 2019,  
13 and who have completed closure prior to 24 months after July  
14 30, 2019 (the effective date of Public Act 101-171) ~~this~~  
15 ~~amendatory Act of the 101st General Assembly~~ shall not be  
16 required to obtain a construction permit for the surface  
17 impoundment closure under this Section.

18 (f) Except for the State, its agencies and institutions, a  
19 unit of local government, or not-for-profit electric  
20 cooperative as defined in Section 3.4 of the Electric Supplier  
21 Act, any person who owns or operates a CCR surface impoundment  
22 in this State shall post with the Agency a performance bond or  
23 other security for the purpose of: (i) ensuring closure of the  
24 CCR surface impoundment and post-closure care in accordance  
25 with this Act and its rules; and (ii) ensuring ~~insuring~~  
26 remediation of releases from the CCR surface impoundment. The

1 only acceptable forms of financial assurance are: a trust  
2 fund, a surety bond guaranteeing payment, a surety bond  
3 guaranteeing performance, ~~or~~ an irrevocable letter of credit.

4 (1) The cost estimate for the post-closure care of a  
5 CCR surface impoundment shall be calculated using a  
6 30-year post-closure care period or such longer period as  
7 may be approved by the Agency under Board or federal  
8 rules.

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

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

21 (g) The Board shall adopt rules establishing construction  
22 permit requirements, operating permit requirements, design  
23 standards, reporting, financial assurance, and closure and  
24 post-closure care requirements for CCR surface impoundments.  
25 Not later than 8 months after July 30, 2019 (the effective date  
26 of Public Act 101-171) ~~this amendatory Act of the 101st~~

1 ~~General Assembly~~ the Agency shall propose, and not later than  
2 one year after receipt of the Agency's proposal the Board  
3 shall adopt, rules under this Section. The rules must, at a  
4 minimum:

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

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

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

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

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

24 (6) specify meaningful public participation procedures  
25 for the issuance of CCR surface impoundment construction  
26 and operating permits, including, but not limited to,

1 public notice of the submission of permit applications, an  
2 opportunity for the submission of public comments, an  
3 opportunity for a public hearing prior to permit issuance,  
4 and a summary and response of the comments prepared by the  
5 Agency;

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

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

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

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

26 (11) describe the process and standards for



1 identifying a specific alternative source of groundwater  
2 pollution when the owner or operator of the CCR surface  
3 impoundment believes that groundwater contamination on the  
4 site is not from the CCR surface impoundment.

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

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

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

17 (1) An initial fee to the Agency within 6 months after  
18 July 30, 2019 (the effective date of Public Act 101-171)  
19 ~~this amendatory Act of the 101st General Assembly~~ of:

20 \$50,000 for each closed CCR surface impoundment;

21 and

22 \$75,000 for each CCR surface impoundment that have  
23 not completed closure.

24 (2) Annual fees to the Agency, beginning on July 1,  
25 2020, of:

26 \$25,000 for each CCR surface impoundment that has

1 not completed closure; and

2 \$15,000 for each CCR surface impoundment that has  
3 completed closure, but has not completed post-closure  
4 care.

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

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

20 (m) The provisions of this Section shall apply, without  
21 limitation, to all existing CCR surface impoundments and any  
22 CCR surface impoundments constructed after July 30, 2019 (the  
23 effective date of Public Act 101-171) ~~this amendatory Act of~~  
24 ~~the 101st General Assembly~~, except to the extent prohibited by  
25 the Illinois or United States Constitutions.

26 (Source: P.A. 101-171, eff. 7-30-19; revised 10-22-19.)

1           Section 99. Effective date. This Act takes effect upon  
2   becoming law.".