



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5814

by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

See Index

Creates the Carbon Dioxide Transport and Storage Protections Act. Defines terms. Provides that (i) title to pore space belongs to and is vested in the surface owner of the overlying surface estate, (ii) a conveyance of title to a surface estate conveys title to the pore space in all strata underlying the surface estate, and (iii) title to pore space may not be severed from title to the surface estate. Notwithstanding any other provision of law, prohibits the amalgamation of pore space under the Eminent Domain Act. Contains requirements for valid amalgamation. Requires the Illinois Emergency Management Agency and Office of Homeland Security to determine a fee for carbon sequestration by rule. Creates the Carbon Transportation and Sequestration Readiness Fund and makes a conforming change in the State Finance Act. Requires the Illinois Emergency Management Agency and Office of Homeland Security and the Department of Public Health to conduct training with specified requirements. Contains other provisions. Amends the Illinois Power Agency Act. Makes changes to the definition of "sequester". Removes language requiring specified facilities to be clean coal facilities. Makes other changes. Amends the Carbon Dioxide Transportation and Sequestration Act. Contains requirements for receiving a certificate of authority. Makes other changes. Amends the Environmental Protection Act. Requires any person seeking to sequester carbon dioxide in Illinois to first obtain a carbon sequestration permit from the Agency. Contains other provisions and makes other changes. Contains a severability provision. Effective immediately.

LRB103 39997 BDA 71298 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 1. Short title. This Act may be cited as the Carbon
5 Dioxide Transport and Storage Protections Act.

6 Section 5. Legislative findings and objectives. The
7 General Assembly finds that:

8 (1) State law currently lacks clarity concerning the
9 rights of landowners with regard to pore space in the
10 subsurface beneath their land, limiting landowners'
11 ability to fully enjoy and protect their property.

12 (2) The transport of carbon dioxide via pipelines
13 significantly affects landowners' rights to enjoy their
14 property. Carbon dioxide pipelines may impede access to
15 property and fields, harm crops and topsoil, and pose a
16 risk of grave harm if there is a release of carbon dioxide.

17 (3) The storage of carbon dioxide in subsurface pore
18 space may have profound impacts upon the surface estate.
19 Subsurface carbon dioxide storage may require easements
20 for pipelines, injection wells, monitoring equipment, and
21 other infrastructure, and may harm crops and topsoil and
22 risk grave harm to landowners, surrounding ecosystems, and
23 water supplies if carbon dioxide is released.

1 (4) To protect landowners, surface ecosystems,
2 groundwater, and nearby residents, it is essential that
3 the State clarify the ownership, liability, and other
4 property rights associated with carbon dioxide
5 transportation and storage before additional carbon
6 transport and storage takes place in the State, as well as
7 provide units of local government and residents with
8 training and resources so they can be prepared if there is
9 a carbon dioxide release.

10 Section 10. Definitions. As used in this Act:

11 "Agency" means the Illinois Environmental Protection
12 Agency.

13 "Amalgamation" means the combining or uniting of property
14 rights in adjacent subsurface pore space for the permanent
15 storage of carbon dioxide.

16 "Area of review" has the meaning given to that term in
17 Section 3.121 of the Environmental Protection Act.

18 "Carbon dioxide injection well" means a well that is used
19 to inject carbon dioxide into a reservoir for permanent
20 geologic sequestration.

21 "Carbon dioxide pipeline" or "pipeline" means the in-State
22 portion of a pipeline, including appurtenant facilities,
23 property rights, and easements, that are used to transport
24 carbon dioxide.

25 "Carbon dioxide sequestration reservoir" means a portion

1 of a sedimentary geologic stratum or formation containing pore
2 space, including, but not limited to, depleted reservoirs and
3 saline formations, that the United States Environmental
4 Protection Agency has determined is suitable for the injection
5 and permanent storage of carbon dioxide.

6 "Carbon dioxide stream" means carbon dioxide, any
7 incidental associated substances derived from the source
8 materials and process of producing or capturing carbon
9 dioxide, and any substance added to the stream to enable or
10 improve the injection process or the detection of a leak or
11 rupture.

12 "Department" means the Department of Public Health.

13 "Fund" means the Carbon Transportation and Sequestration
14 Readiness Fund.

15 "Person" has the meaning given to that term in Section
16 3.315 of the Environmental Protection Act.

17 "Pipeline operator" means a person who owns, leases,
18 operates, controls, or supervises a pipeline that transports
19 carbon dioxide.

20 "Pore space" or "porosity" means the portion of geologic
21 media that contains gas or fluid, including, but not limited
22 to, oil or water, and that can be used to store carbon dioxide.

23 "Pore space" also includes solution-mined cavities.

24 "Pore space owner" means the person who has title to a pore
25 space.

26 "Qualified Third Party" means a person or entity

1 determined by the Department to have the capacity and
2 experience to carry out relevant duties. "Qualified Third
3 Party" does not include any person or entity that has
4 received, or is receiving, funding from any source to
5 research, engage or assist in the capture, transport, or
6 sequestration of carbon dioxide.

7 "Sequester" has the meaning given to that term in Section
8 1-10 of the Illinois Power Agency Act.

9 "Sequestration" means to sequester or be sequestered.

10 "Sequestration facility" means the carbon dioxide
11 sequestration reservoir, underground equipment, including, but
12 not limited to, well penetrations, and surface facilities and
13 equipment used or proposed to be used in a geologic storage
14 operation. "Sequestration facility" includes an injection well
15 and equipment used to connect the surface facility and
16 equipment to the carbon dioxide sequestration reservoir and
17 underground equipment. "Sequestration facility" does not
18 include pipelines used to transport carbon dioxide to a
19 sequestration facility.

20 "Sequestration operator" means a person who holds, is
21 applying for, or is required to obtain a carbon sequestration
22 permit under Section 22.64 of the Environmental Protection
23 Act.

24 "Sequestration pore space" means a pore space proposed,
25 authorized, or used for sequestering one or more carbon
26 dioxide streams in accordance with a permit or permit

1 application under Section 22.64 of the Environmental
2 Protection Act.

3 "Surface owner" means a person identified in the records
4 of the recorder of deeds for each county containing some
5 portion of a proposed carbon dioxide sequestration reservoir
6 as an owner of a whole or undivided fee simple interest or
7 other freehold interest in real property in the surface above
8 the sequestration pore space. "Surface owner" does not include
9 an owner of a right-of-way, easement, leasehold, or any other
10 lesser estate.

11 "Transportation" or "transport" means the physical
12 movement of carbon dioxide by pipeline conducted for any
13 person's use or on any person's account.

14 Section 15. Ownership and conveyance of pore space.

15 (a) Title to pore space belongs to and is vested in the
16 surface owner of the surface estate.

17 (b) A conveyance of title to a surface estate conveys
18 title to the pore space in all strata underlying the surface
19 estate.

20 (c) Title to pore space may not be severed from title to
21 the surface estate. A grant of easement for use of pore space
22 is not a severance prohibited under this subsection.

23 (d) A grant of easement for use of pore space shall not
24 confer any right to enter upon or otherwise use the surface of
25 the land unless the grant of easement expressly provides that

1 right.

2 (e) Any grant of easement for use of pore space shall be
3 recorded in the same manner as easements of real estate.

4 If the holder of an easement or lease of pore space
5 withdraws or is denied a permit for sequestration of carbon
6 dioxide under Section 22.64 of the Environmental Protection
7 Act, including, but not limited to, the disapproval of
8 financial assurance under subsection (e) of Section 22.64 of
9 the Environmental Protection Act, the owner of the surface
10 estate shall have the right to have the title or interest
11 returned for any amounts paid to the holder of the easement or
12 lease.

13 Section 20. No compulsory amalgamation. Notwithstanding
14 any other provision of law, a sequestration operator may not
15 exercise any authority to take or acquire any easement or
16 title to any pore space or any portion of an area of review
17 under the Eminent Domain Act for amalgamation. A sequestration
18 operator must obtain, for the entirety of the area of review
19 the person seeks to use for carbon sequestration, one of the
20 following:

21 (1) a written grant of easement to enter into and use a
22 surface owner's portion of the proposed area of review for
23 carbon sequestration;

24 (2) a written lease agreement allowing the person to
25 enter into and use a surface owner's portion of the

1 proposed area of review for carbon sequestration; or
2 (3) title to that portion of the proposed area of
3 review and surface estate.

4 Section 25. Ownership of carbon dioxide; liability.

5 (a) A sequestration operator is liable for any and all
6 damage caused by carbon dioxide or other fluids, including,
7 but not limited to, brine, that are within the sequestration
8 operator's sequestration facility for injection or
9 sequestration or that are otherwise under the sequestration
10 operator's control, including, but not limited to, damage
11 caused by carbon dioxide or other fluids released from the
12 sequestration facility, regardless of who holds title to the
13 carbon dioxide, the pore space, or the surface estate.
14 Liability for damage caused by carbon dioxide that is within a
15 sequestration facility or otherwise within a sequestration
16 operator's control, including carbon dioxide being transferred
17 from a pipeline to the injection well, may be joint and several
18 with a third party adjudicated to have caused or contributed
19 to such damage. The State shall not be liable for any damage
20 caused by carbon dioxide or other fluids within a
21 sequestration facility. A pipeline operator is liable for any
22 and all damage caused by carbon dioxide during transportation,
23 including, but not limited to, damage caused by carbon dioxide
24 released from the pipeline. Liability for damage caused by
25 carbon dioxide during transportation may be joint and several

1 with: (i) the entity that owns title to the carbon dioxide if
2 that entity is different from the operator; or (ii) the
3 sequestration operator if damage occurs at the point where
4 carbon dioxide changes control.

5 (b) A sequestration operator is liable for any and all
6 damage or harm that may result from equipment associated with
7 carbon sequestration, including, but not limited to, operation
8 of the equipment. Liability for harms or damage resulting from
9 equipment associated with carbon sequestration, including
10 equipment used to transfer carbon dioxide from the pipeline to
11 the injection well, may be joint and several with a third party
12 adjudicated to have willfully or recklessly caused or
13 contributed to such harms or damage.

14 (c) Title to carbon dioxide sequestered in this State
15 shall not be vested in the owner of the sequestration pore
16 space. Sequestered carbon dioxide is a separate property
17 independent of the sequestration pore space.

18 Section 30. Carbon transportation and sequestration
19 emergency response fee. In addition to any permit fees
20 required under the Environmental Protection Act, all
21 sequestration operators and pipeline operators who transport
22 or sequester carbon dioxide in this State must pay a fee each
23 year to the Illinois Emergency Management Agency and Office of
24 Homeland Security. The fee shall be deposited into the Carbon
25 Transportation and Sequestration Readiness Fund. The fee

1 amount shall be determined by the Illinois Emergency
2 Management Agency and Office of Homeland Security through
3 rulemaking as a set amount (i) per mile of approved pipeline
4 for each carbon dioxide pipeline and, for each approved carbon
5 sequestration project, (ii) per square mile of area of review
6 and (iii) per ton of carbon dioxide sequestered, and shall be
7 based, among other information the Illinois Emergency
8 Management Agency and Office of Homeland Security deems
9 relevant, on the Carbon Dioxide Pipeline Setback Study
10 required by Section 45. The fee shall be adjusted annually for
11 inflation and other relevant factors and shall be in an amount
12 determined by the Illinois Emergency Management Agency and
13 Office of Homeland Security as being more than adequate to
14 fund emergency preparedness and response costs for units of
15 local government through which a carbon dioxide pipeline
16 passes or in which carbon sequestration takes place.

17 Section 35. Carbon Transportation and Sequestration
18 Readiness Fund.

19 (a) The Carbon Transportation and Sequestration Readiness
20 Fund is established as a special fund in the State treasury.

21 (b) The Fund shall consist of all moneys from fees
22 collected under Section 30, all interest earned on moneys in
23 the Fund, and any additional moneys allocated or appropriated
24 to the Fund by the General Assembly.

25 (c) Moneys in the Fund shall be used only to:

1 (1) cover administrative costs of the Illinois
2 Emergency Management Agency and Office of Homeland
3 Security for administration of grants awarded under this
4 Section and costs to the Illinois Emergency Management
5 Agency and Office of Homeland Security and Department for
6 preparing the training materials and offering the training
7 sessions required under Section 40;

8 (2) provide funding to units of local government
9 through which a carbon dioxide pipeline has been proposed
10 or approved or in which carbon sequestration has been
11 proposed or is taking place to enhance emergency
12 preparedness and response capabilities if a carbon dioxide
13 release occurs; allowable expenditures of moneys provided
14 under this paragraph are:

15 (A) preparing emergency response plans for carbon
16 dioxide release;

17 (B) purchasing electric emergency response
18 vehicles;

19 (C) developing or maintaining a text message or
20 other emergency communication alert system;

21 (D) purchasing or maintaining devices that assist
22 in the detection of a carbon dioxide release;

23 (E) purchasing or maintaining equipment for first
24 responders, local residents, and medical facilities
25 that assist in the preparation for, detection of, or
26 response to the release of carbon dioxide or other

1 toxic or hazardous materials; and

2 (F) developing, purchasing, or maintaining
3 training and training materials for first responders,
4 local residents, businesses, and other local entities
5 to prepare for and respond to the release of carbon
6 dioxide or other toxic or hazardous materials;

7 (3) fund research to better understand the scope of
8 potential carbon dioxide releases and methods to limit the
9 likelihood of a carbon dioxide release from a pipeline or
10 sequestration facility, including, but not limited to,
11 computer modeling to simulate carbon dioxide leaks from
12 pipelines of varying diameters and lengths.

13 All research funded under paragraph (3) must be included
14 in a report published by the Illinois Emergency Management
15 Agency and Office of Homeland Security on its website, which
16 shall contain recommendations for safety measures to protect
17 communities from carbon dioxide releases, such as hazard
18 zones, setbacks, additional monitoring, or other measures.

19 (d) The Fund shall be administered by the Illinois
20 Emergency Management Agency and Office of Homeland Security.
21 The Illinois Emergency Management Agency and Office of
22 Homeland Security shall issue annual requests for proposals to
23 receive Fund moneys and shall award grants to qualified
24 applicants who meet the criteria under subsection (c) and any
25 other criteria the Illinois Emergency Management Agency and
26 Office of Homeland Security deems necessary for the Fund to

1 serve its intended purpose. The Illinois Emergency Management
2 Agency and Office of Homeland Security shall not limit the
3 number of proposals an applicant may submit under this
4 subsection.

5 (e) The Fund is not subject to subsection (c) of Section 5
6 of the State Finance Act.

7 Section 40. Training for carbon dioxide emergencies.

8 (a) Within one year after the effective date of this Act,
9 the Illinois Emergency Management Agency and Office of
10 Homeland Security and the Department shall jointly prepare
11 training materials for local emergency responders and medical
12 personnel regarding what to do if carbon dioxide is released
13 from a pipeline or a sequestration facility, including, but
14 not limited to:

15 (1) how to identify a carbon dioxide release;

16 (2) communications protocols to quickly share
17 information about a carbon dioxide release;

18 (3) protocols for locating residents and others in the
19 affected area and, when necessary, transporting residents
20 and others in the affected area out of the area to health
21 care facilities; and

22 (4) symptoms of and treatment for exposure to a carbon
23 dioxide release.

24 (b) Each year, the Department and the Illinois Emergency
25 Management Agency and Office of Homeland Security shall offer

1 at least 3 training sessions on emergency response protocols
2 during carbon dioxide releases for emergency responders and
3 medical personnel in any county in which carbon dioxide is
4 proposed to be, or is, transported or sequestered. Unless a
5 health emergency necessitates virtual training only, the
6 training sessions shall be in-person with the option to join
7 remotely and shall be recorded. The recordings shall be
8 maintained on the Illinois Emergency Management Agency and
9 Office of Homeland Security's and Department's publicly
10 available websites.

11 (c) Within one year after the effective date of this Act,
12 the Illinois Emergency Management Agency and Office of
13 Homeland Security and the Department shall jointly prepare
14 training materials for residents, businesses, and other
15 persons and entities located within 2 miles of a carbon
16 dioxide pipeline or above the area of review regarding a
17 carbon dioxide release. The training materials shall include,
18 but are not limited to:

19 (1) how to identify a carbon dioxide release;

20 (2) what to do in the event of a carbon dioxide
21 release;

22 (3) symptoms of exposure to a carbon dioxide release;
23 and

24 (4) recommendations for items residents and other
25 entities may want to purchase or request, including, but
26 not limited to, carbon dioxide monitors and air supply

1 respirators.

2 (d) Each year, the Illinois Emergency Management Agency
3 and Office of Homeland Security and the Department, in
4 cooperation with local emergency response personnel, shall
5 offer at least 2 public training sessions for residents and
6 local businesses in every county in which carbon dioxide is
7 proposed to be, or is, transported or sequestered. Unless a
8 health emergency necessitates virtual training only, the
9 training sessions shall be in-person with the option to join
10 remotely and shall be recorded. The recordings shall be
11 maintained on the Illinois Emergency Management Agency and
12 Office of Homeland Security's and Department's publicly
13 available websites.

14 (e) Every 5 years, the Illinois Emergency Management
15 Agency and Office of Homeland Security and the Department
16 shall review and, if appropriate, revise the training
17 materials developed under this Section to incorporate new best
18 practices, technologies, developments, or information that (i)
19 improves emergency response and treatment for carbon dioxide
20 releases and (ii) may assist local residents and businesses to
21 be better prepared in the event of a carbon dioxide release.

22 Section 45. Carbon Dioxide Pipeline Setback Study.

23 (a) The General Assembly finds and determines that:

24 (1) Carbon dioxide is an asphyxiant. A carbon dioxide
25 leak or rupture from a carbon dioxide pipeline poses a

1 risk of grave harm to human health, animals, and the
2 environment. No standards exist to minimize harm to humans
3 and animals in the event of a carbon dioxide pipeline leak
4 or rupture.

5 (2) Further information and analysis is necessary to
6 determine how far carbon dioxide pipelines must be
7 separated from populated and sensitive areas to minimize
8 potential harm to human health, animals, and the
9 environment.

10 (b) Within 3 months of the effective date of this Act of
11 the 103rd General Assembly, the State shall commission a study
12 evaluating how far carbon dioxide pipelines must be separated
13 from residences, hospitals, schools, nursing homes, places of
14 worship, jails, prisons, businesses, industry, other locations
15 where people congregate, and livestock, in order to ensure
16 that (i) a release of carbon dioxide will not intoxicate,
17 asphyxiate, or otherwise harm humans, livestock, or other
18 animals; and (ii) adequate time will be available for the safe
19 and successful evacuation or rescue of people and animals in
20 the event of a pipeline rupture or leak. The study shall:

21 (1) be conducted by the Department, in collaboration
22 with the Agency and the Illinois Emergency Management
23 Agency and Office of Homeland Security; the Department
24 may, at its discretion, contract with a Qualified Third
25 Party to conduct the study in its stead in accordance with
26 this Section;

1 (2) Incorporate input from first responders, including
2 both voluntary and paid professionals; law enforcement
3 officials; medical and veterinary professionals;
4 transportation experts; carbon dioxide pipeline engineers;
5 meteorologists; geologists; persons trained in
6 computational fluid dynamic modeling and other modeling of
7 carbon dioxide plumes; County Emergency Management
8 Agencies; township officials; county boards; village
9 boards; city councils; and the general public;

10 (3) Evaluate the effects on humans and livestock of
11 exposure to carbon dioxide resulting from carbon dioxide
12 pipeline ruptures or leaks in a variety of urban,
13 suburban, and rural settings that exist throughout the
14 State, taking into account:

15 (i) a variety of pipeline diameters, including but
16 not limited to pipelines with diameters of 4 inches,
17 10 inches, 16 inches, 22 inches, 28 inches, 34 inches,
18 and 40 inches;

19 (ii) the placement of crack arrestors and shutoff
20 valves in accordance with the most recent guidelines
21 issued by the federal Pipeline and Hazardous Materials
22 Safety Administration;

23 (iii) the operating pressures and flow rates of
24 pipelines transporting carbon dioxide as (A) a liquid
25 and (B) in supercritical state;

26 (iv) the movement of carbon dioxide in a variety

1 of topographies, built environments, and weather
2 conditions including but not limited to variations in
3 temperature, atmospheric pressure, precipitation, and
4 wind speed and direction; and

5 (v) studies and findings of the federal
6 Occupational Safety and Health Administration, the
7 United States Environmental Protection Agency, the
8 National Institute of Occupational Safety and Health,
9 and the Health and Safety Executive of the United
10 Kingdom concerning the health effects of exposure to
11 carbon dioxide at different concentrations and for
12 different durations, including but not limited to
13 those set out in Table B-1 of Appendix B of the United
14 States Environmental Protection Agency's report titled
15 "Carbon Dioxide as a Fire Suppressant: Examining the
16 Risks," EPA430-R-00-002, dated February 2000; the
17 Immediately Dangerous to Life or Health Value for
18 carbon dioxide exposure established by the National
19 Institute for Occupational Safety and Health; and the
20 paper titled "Assessment of the Major Hazard Potential
21 of Carbon Dioxide (CO2)" from the Health and Safety
22 Executive of the United Kingdom; and

23 (4) be completed within 21 months of the effective
24 date of this Act.

25 (c) Within 3 months of completion of the study, the
26 Department or Qualified Third Party shall issue a final report

1 containing the following:

2 (1) A summary of the study;

3 (2) Recommended setbacks for each setting and criteria
4 identified in subsection (b) (3), accounting for:

5 (i) varying concentrations of carbon dioxide,
6 duration of exposure, acute health effects, and time
7 consequences of exposure to carbon dioxide;

8 (ii) the time necessary to evacuate or be rescued
9 before oxygen deprivation or toxicity leads to serious
10 health effects, including but not limited to
11 convulsions, unconsciousness, coma, and/or death;

12 (iii) health impacts on, and challenges to
13 evacuation or rescue for, vulnerable populations,
14 including but not limited to:

15 (A) Pregnant women and people with respiratory
16 illness or insufficiency;

17 (B) The elderly, young children, and persons
18 with decreased mobility; and

19 (C) persons who depend primarily on public
20 transportation;

21 (iv) the availability of electric vehicles and
22 other transport options that do not use combustion
23 engines;

24 (v) the potential effects of inclement weather on
25 evacuation and rescue;

26 (vi) the availability of alternate escape routes;

1 and

2 (vii) the presence of carbon dioxide on highways
3 or railways; potential impacts on passengers on
4 highways or railways; and measures available to limit
5 passengers' exposure to carbon dioxide present on
6 highways or railways;

7 (3) Recommendations for initial funding amounts
8 sufficient to provide first responders, medical
9 professionals, and local governments the equipment,
10 training, staffing, and other items necessary to carry out
11 safe and timely evacuations and rescues in the event of a
12 pipeline leak or rupture, including but not limited to the
13 equipment required to prevent and treat hypothermia,
14 asphyxia, and toxicity; the funding amounts shall be
15 specified as follows:

16 (i) Different recommended funding amounts shall be
17 provided for pipelines that pass through High
18 Consequence Areas as defined by the federal Pipeline
19 and Hazardous Materials Safety Administration, and
20 carbon dioxide pipelines that do not pass through such
21 areas;

22 (ii) Different recommended funding amounts may be
23 provided for varying circumstances, including, but not
24 limited to, areas with few emergency responders;

25 (4) Recommendations for fees to be required of
26 pipeline operators to ensure availability of the

1 necessary funding amounts, and

2 (5) Recommendations for a method to update the
3 total funding amount and fees to account for changing
4 costs, inflation, and other relevant factors.

5 (d) The Department shall determine the costs of conducting
6 the study and preparing the report required by this Section
7 and each permittee authorized to capture, transport, or
8 sequester carbon dioxide in the State shall be required to pay
9 a supplemental fee, determined by the Department, to cover
10 those costs.

11 Section 50. Carbon Dioxide Capture, Transport, and
12 Sequestration Report.

13 (a) Every 5 years, the Agency shall draft and present to
14 the General Assembly a report on carbon dioxide capture,
15 transport and sequestration in the State. The report shall
16 include, but is not limited to:

17 (i) the locations where carbon dioxide capture,
18 transport, or sequestration is occurring or proposed to
19 occur in the State;

20 (ii) the volume of carbon dioxide captured,
21 transported, and sequestered in the State;

22 (iii) total greenhouse gas emissions associated with
23 the capture, transport, and sequestration of carbon
24 dioxide in the State;

25 (iv) the capture rate of carbon dioxide achieved by

1 carbon dioxide capture projects in the State;

2 (v) known leaks or ruptures of any carbon dioxide
3 pipelines in the State, together with any damage,
4 injuries, or deaths associated with any such leaks or
5 ruptures;

6 (vi) known instances of carbon dioxide plumes
7 migrating out of confining zones in the State, together
8 with any contamination or harms associated with any such
9 instances; and

10 (vii) recommendations for legislative changes to
11 improve health or safety impacts associated with the
12 capture, transport, and sequestration of carbon dioxide in
13 the State.

14 (b) The Agency shall determine the costs of preparing the
15 reports required by this Section and each permittee authorized
16 to capture, transport, or sequester carbon dioxide in the
17 State shall be required to pay an annual fee, determined by the
18 Agency, to cover those costs.

19 Section 55. The State Finance Act is amended by adding
20 Section 5.1015 as follows:

21 (30 ILCS 105/5.1015 new)

22 Sec. 5.1015. The Carbon Transport and Sequestration
23 Readiness Fund.

1 Section 60. The Illinois Power Agency Act is amended by
2 changing Sections 1-10 and 1-80 as follows:

3 (20 ILCS 3855/1-10)

4 Sec. 1-10. Definitions.

5 "Agency" means the Illinois Power Agency.

6 "Agency loan agreement" means any agreement pursuant to
7 which the Illinois Finance Authority agrees to loan the
8 proceeds of revenue bonds issued with respect to a project to
9 the Agency upon terms providing for loan repayment
10 installments at least sufficient to pay when due all principal
11 of, interest and premium, if any, on those revenue bonds, and
12 providing for maintenance, insurance, and other matters in
13 respect of the project.

14 "Authority" means the Illinois Finance Authority.

15 "Brownfield site photovoltaic project" means photovoltaics
16 that are either:

17 (1) interconnected to an electric utility as defined
18 in this Section, a municipal utility as defined in this
19 Section, a public utility as defined in Section 3-105 of
20 the Public Utilities Act, or an electric cooperative as
21 defined in Section 3-119 of the Public Utilities Act and
22 located at a site that is regulated by any of the following
23 entities under the following programs:

24 (A) the United States Environmental Protection
25 Agency under the federal Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980, as
2 amended;

3 (B) the United States Environmental Protection
4 Agency under the Corrective Action Program of the
5 federal Resource Conservation and Recovery Act, as
6 amended;

7 (C) the Illinois Environmental Protection Agency
8 under the Illinois Site Remediation Program; or

9 (D) the Illinois Environmental Protection Agency
10 under the Illinois Solid Waste Program; or

11 (2) located at the site of a coal mine that has
12 permanently ceased coal production, permanently halted any
13 re-mining operations, and is no longer accepting any coal
14 combustion residues; has both completed all clean-up and
15 remediation obligations under the federal Surface Mining
16 and Reclamation Act of 1977 and all applicable Illinois
17 rules and any other clean-up, remediation, or ongoing
18 monitoring to safeguard the health and well-being of the
19 people of the State of Illinois, as well as demonstrated
20 compliance with all applicable federal and State
21 environmental rules and regulations, including, but not
22 limited, to 35 Ill. Adm. Code Part 845 and any rules for
23 historic fill of coal combustion residuals, including any
24 rules finalized in Subdocket A of Illinois Pollution
25 Control Board docket R2020-019.

26 "Clean coal facility" means an electric generating

1 facility that uses primarily coal as a feedstock and that
2 captures and sequesters carbon dioxide emissions at the
3 following levels: at least 50% of the total carbon dioxide
4 emissions that the facility would otherwise emit if, at the
5 time construction commences, the facility is scheduled to
6 commence operation before 2016, at least 70% of the total
7 carbon dioxide emissions that the facility would otherwise
8 emit if, at the time construction commences, the facility is
9 scheduled to commence operation during 2016 or 2017, and at
10 least 90% of the total carbon dioxide emissions that the
11 facility would otherwise emit if, at the time construction
12 commences, the facility is scheduled to commence operation
13 after 2017. The power block of the clean coal facility shall
14 not exceed allowable emission rates for sulfur dioxide,
15 nitrogen oxides, carbon monoxide, particulates and mercury for
16 a natural gas-fired combined-cycle facility the same size as
17 and in the same location as the clean coal facility at the time
18 the clean coal facility obtains an approved air permit. All
19 coal used by a clean coal facility shall have high volatile
20 bituminous rank and greater than 1.7 pounds of sulfur per
21 million Btu content, unless the clean coal facility does not
22 use gasification technology and was operating as a
23 conventional coal-fired electric generating facility on June
24 1, 2009 (the effective date of Public Act 95-1027).

25 "Clean coal SNG brownfield facility" means a facility that
26 (1) has commenced construction by July 1, 2015 on an urban

1 brownfield site in a municipality with at least 1,000,000
2 residents; (2) uses a gasification process to produce
3 substitute natural gas; (3) uses coal as at least 50% of the
4 total feedstock over the term of any sourcing agreement with a
5 utility and the remainder of the feedstock may be either
6 petroleum coke or coal, with all such coal having a high
7 bituminous rank and greater than 1.7 pounds of sulfur per
8 million Btu content unless the facility reasonably determines
9 that it is necessary to use additional petroleum coke to
10 deliver additional consumer savings, in which case the
11 facility shall use coal for at least 35% of the total feedstock
12 over the term of any sourcing agreement; and (4) captures and
13 sequesters at least 85% of the total carbon dioxide emissions
14 that the facility would otherwise emit.

15 "Clean coal SNG facility" means a facility that uses a
16 gasification process to produce substitute natural gas, that
17 sequesters at least 90% of the total carbon dioxide emissions
18 that the facility would otherwise emit, that uses at least 90%
19 coal as a feedstock, with all such coal having a high
20 bituminous rank and greater than 1.7 pounds of sulfur per
21 million Btu content, and that has a valid and effective permit
22 to construct emission sources and air pollution control
23 equipment and approval with respect to the federal regulations
24 for Prevention of Significant Deterioration of Air Quality
25 (PSD) for the plant pursuant to the federal Clean Air Act;
26 provided, however, a clean coal SNG brownfield facility shall

1 not be a clean coal SNG facility.

2 "Clean energy" means energy generation that is 90% or
3 greater free of carbon dioxide emissions.

4 "Commission" means the Illinois Commerce Commission.

5 "Community renewable generation project" means an electric
6 generating facility that:

7 (1) is powered by wind, solar thermal energy,
8 photovoltaic cells or panels, biodiesel, crops and
9 untreated and unadulterated organic waste biomass, and
10 hydropower that does not involve new construction of dams;

11 (2) is interconnected at the distribution system level
12 of an electric utility as defined in this Section, a
13 municipal utility as defined in this Section that owns or
14 operates electric distribution facilities, a public
15 utility as defined in Section 3-105 of the Public
16 Utilities Act, or an electric cooperative, as defined in
17 Section 3-119 of the Public Utilities Act;

18 (3) credits the value of electricity generated by the
19 facility to the subscribers of the facility; and

20 (4) is limited in nameplate capacity to less than or
21 equal to 5,000 kilowatts.

22 "Costs incurred in connection with the development and
23 construction of a facility" means:

24 (1) the cost of acquisition of all real property,
25 fixtures, and improvements in connection therewith and
26 equipment, personal property, and other property, rights,

1 and easements acquired that are deemed necessary for the
2 operation and maintenance of the facility;

3 (2) financing costs with respect to bonds, notes, and
4 other evidences of indebtedness of the Agency;

5 (3) all origination, commitment, utilization,
6 facility, placement, underwriting, syndication, credit
7 enhancement, and rating agency fees;

8 (4) engineering, design, procurement, consulting,
9 legal, accounting, title insurance, survey, appraisal,
10 escrow, trustee, collateral agency, interest rate hedging,
11 interest rate swap, capitalized interest, contingency, as
12 required by lenders, and other financing costs, and other
13 expenses for professional services; and

14 (5) the costs of plans, specifications, site study and
15 investigation, installation, surveys, other Agency costs
16 and estimates of costs, and other expenses necessary or
17 incidental to determining the feasibility of any project,
18 together with such other expenses as may be necessary or
19 incidental to the financing, insuring, acquisition, and
20 construction of a specific project and starting up,
21 commissioning, and placing that project in operation.

22 "Delivery services" has the same definition as found in
23 Section 16-102 of the Public Utilities Act.

24 "Delivery year" means the consecutive 12-month period
25 beginning June 1 of a given year and ending May 31 of the
26 following year.

1 "Department" means the Department of Commerce and Economic
2 Opportunity.

3 "Director" means the Director of the Illinois Power
4 Agency.

5 "Demand-response" means measures that decrease peak
6 electricity demand or shift demand from peak to off-peak
7 periods.

8 "Distributed renewable energy generation device" means a
9 device that is:

10 (1) powered by wind, solar thermal energy,
11 photovoltaic cells or panels, biodiesel, crops and
12 untreated and unadulterated organic waste biomass, tree
13 waste, and hydropower that does not involve new
14 construction of dams, waste heat to power systems, or
15 qualified combined heat and power systems;

16 (2) interconnected at the distribution system level of
17 either an electric utility as defined in this Section, a
18 municipal utility as defined in this Section that owns or
19 operates electric distribution facilities, or a rural
20 electric cooperative as defined in Section 3-119 of the
21 Public Utilities Act;

22 (3) located on the customer side of the customer's
23 electric meter and is primarily used to offset that
24 customer's electricity load; and

25 (4) (blank).

26 "Energy efficiency" means measures that reduce the amount

1 of electricity or natural gas consumed in order to achieve a
2 given end use. "Energy efficiency" includes voltage
3 optimization measures that optimize the voltage at points on
4 the electric distribution voltage system and thereby reduce
5 electricity consumption by electric customers' end use
6 devices. "Energy efficiency" also includes measures that
7 reduce the total Btus of electricity, natural gas, and other
8 fuels needed to meet the end use or uses.

9 "Electric utility" has the same definition as found in
10 Section 16-102 of the Public Utilities Act.

11 "Equity investment eligible community" or "eligible
12 community" are synonymous and mean the geographic areas
13 throughout Illinois which would most benefit from equitable
14 investments by the State designed to combat discrimination.
15 Specifically, the eligible communities shall be defined as the
16 following areas:

17 (1) R3 Areas as established pursuant to Section 10-40
18 of the Cannabis Regulation and Tax Act, where residents
19 have historically been excluded from economic
20 opportunities, including opportunities in the energy
21 sector; and

22 (2) environmental justice communities, as defined by
23 the Illinois Power Agency pursuant to the Illinois Power
24 Agency Act, where residents have historically been subject
25 to disproportionate burdens of pollution, including
26 pollution from the energy sector.

1 "Equity eligible persons" or "eligible persons" means
2 persons who would most benefit from equitable investments by
3 the State designed to combat discrimination, specifically:

4 (1) persons who graduate from or are current or former
5 participants in the Clean Jobs Workforce Network Program,
6 the Clean Energy Contractor Incubator Program, the
7 Illinois Climate Works Preapprenticeship Program,
8 Returning Residents Clean Jobs Training Program, or the
9 Clean Energy Primes Contractor Accelerator Program, and
10 the solar training pipeline and multi-cultural jobs
11 program created in paragraphs (a) (1) and (a) (3) of Section
12 16-208.12 of the Public Utilities Act;

13 (2) persons who are graduates of or currently enrolled
14 in the foster care system;

15 (3) persons who were formerly incarcerated;

16 (4) persons whose primary residence is in an equity
17 investment eligible community.

18 "Equity eligible contractor" means a business that is
19 majority-owned by eligible persons, or a nonprofit or
20 cooperative that is majority-governed by eligible persons, or
21 is a natural person that is an eligible person offering
22 personal services as an independent contractor.

23 "Facility" means an electric generating unit or a
24 co-generating unit that produces electricity along with
25 related equipment necessary to connect the facility to an
26 electric transmission or distribution system.

1 "General contractor" means the entity or organization with
2 main responsibility for the building of a construction project
3 and who is the party signing the prime construction contract
4 for the project.

5 "Governmental aggregator" means one or more units of local
6 government that individually or collectively procure
7 electricity to serve residential retail electrical loads
8 located within its or their jurisdiction.

9 "High voltage direct current converter station" means the
10 collection of equipment that converts direct current energy
11 from a high voltage direct current transmission line into
12 alternating current using Voltage Source Conversion technology
13 and that is interconnected with transmission or distribution
14 assets located in Illinois.

15 "High voltage direct current renewable energy credit"
16 means a renewable energy credit associated with a renewable
17 energy resource where the renewable energy resource has
18 entered into a contract to transmit the energy associated with
19 such renewable energy credit over high voltage direct current
20 transmission facilities.

21 "High voltage direct current transmission facilities"
22 means the collection of installed equipment that converts
23 alternating current energy in one location to direct current
24 and transmits that direct current energy to a high voltage
25 direct current converter station using Voltage Source
26 Conversion technology. "High voltage direct current

1 transmission facilities" includes the high voltage direct
2 current converter station itself and associated high voltage
3 direct current transmission lines. Notwithstanding the
4 preceding, after September 15, 2021 (the effective date of
5 Public Act 102-662), an otherwise qualifying collection of
6 equipment does not qualify as high voltage direct current
7 transmission facilities unless its developer entered into a
8 project labor agreement, is capable of transmitting
9 electricity at 525kv with an Illinois converter station
10 located and interconnected in the region of the PJM
11 Interconnection, LLC, and the system does not operate as a
12 public utility, as that term is defined in Section 3-105 of the
13 Public Utilities Act.

14 "Hydropower" means any method of electricity generation or
15 storage that results from the flow of water, including
16 impoundment facilities, diversion facilities, and pumped
17 storage facilities.

18 "Index price" means the real-time energy settlement price
19 at the applicable Illinois trading hub, such as PJM-NIHUB or
20 MISO-IL, for a given settlement period.

21 "Indexed renewable energy credit" means a tradable credit
22 that represents the environmental attributes of one megawatt
23 hour of energy produced from a renewable energy resource, the
24 price of which shall be calculated by subtracting the strike
25 price offered by a new utility-scale wind project or a new
26 utility-scale photovoltaic project from the index price in a

1 given settlement period.

2 "Indexed renewable energy credit counterparty" has the
3 same meaning as "public utility" as defined in Section 3-105
4 of the Public Utilities Act.

5 "Local government" means a unit of local government as
6 defined in Section 1 of Article VII of the Illinois
7 Constitution.

8 "Modernized" or "retooled" means the construction, repair,
9 maintenance, or significant expansion of turbines and existing
10 hydropower dams.

11 "Municipality" means a city, village, or incorporated
12 town.

13 "Municipal utility" means a public utility owned and
14 operated by any subdivision or municipal corporation of this
15 State.

16 "Nameplate capacity" means the aggregate inverter
17 nameplate capacity in kilowatts AC.

18 "Person" means any natural person, firm, partnership,
19 corporation, either domestic or foreign, company, association,
20 limited liability company, joint stock company, or association
21 and includes any trustee, receiver, assignee, or personal
22 representative thereof.

23 "Project" means the planning, bidding, and construction of
24 a facility.

25 "Project labor agreement" means a pre-hire collective
26 bargaining agreement that covers all terms and conditions of

1 employment on a specific construction project and must include
2 the following:

3 (1) provisions establishing the minimum hourly wage
4 for each class of labor organization employee;

5 (2) provisions establishing the benefits and other
6 compensation for each class of labor organization
7 employee;

8 (3) provisions establishing that no strike or disputes
9 will be engaged in by the labor organization employees;

10 (4) provisions establishing that no lockout or
11 disputes will be engaged in by the general contractor
12 building the project; and

13 (5) provisions for minorities and women, as defined
14 under the Business Enterprise for Minorities, Women, and
15 Persons with Disabilities Act, setting forth goals for
16 apprenticeship hours to be performed by minorities and
17 women and setting forth goals for total hours to be
18 performed by underrepresented minorities and women.

19 A labor organization and the general contractor building
20 the project shall have the authority to include other terms
21 and conditions as they deem necessary.

22 "Public utility" has the same definition as found in
23 Section 3-105 of the Public Utilities Act.

24 "Qualified combined heat and power systems" means systems
25 that, either simultaneously or sequentially, produce
26 electricity and useful thermal energy from a single fuel

1 source. Such systems are eligible for "renewable energy
2 credits" in an amount equal to its total energy output where a
3 renewable fuel is consumed or in an amount equal to the net
4 reduction in nonrenewable fuel consumed on a total energy
5 output basis.

6 "Real property" means any interest in land together with
7 all structures, fixtures, and improvements thereon, including
8 lands under water and riparian rights, any easements,
9 covenants, licenses, leases, rights-of-way, uses, and other
10 interests, together with any liens, judgments, mortgages, or
11 other claims or security interests related to real property.

12 "Renewable energy credit" means a tradable credit that
13 represents the environmental attributes of one megawatt hour
14 of energy produced from a renewable energy resource.

15 "Renewable energy resources" includes energy and its
16 associated renewable energy credit or renewable energy credits
17 from wind, solar thermal energy, photovoltaic cells and
18 panels, biodiesel, anaerobic digestion, crops and untreated
19 and unadulterated organic waste biomass, and hydropower that
20 does not involve new construction of dams, waste heat to power
21 systems, or qualified combined heat and power systems. For
22 purposes of this Act, landfill gas produced in the State is
23 considered a renewable energy resource. "Renewable energy
24 resources" does not include the incineration or burning of
25 tires, garbage, general household, institutional, and
26 commercial waste, industrial lunchroom or office waste,

1 landscape waste, railroad crossties, utility poles, or
2 construction or demolition debris, other than untreated and
3 unadulterated waste wood. "Renewable energy resources" also
4 includes high voltage direct current renewable energy credits
5 and the associated energy converted to alternating current by
6 a high voltage direct current converter station to the extent
7 that: (1) the generator of such renewable energy resource
8 contracted with a third party to transmit the energy over the
9 high voltage direct current transmission facilities, and (2)
10 the third-party contracting for delivery of renewable energy
11 resources over the high voltage direct current transmission
12 facilities have ownership rights over the unretired associated
13 high voltage direct current renewable energy credit.

14 "Retail customer" has the same definition as found in
15 Section 16-102 of the Public Utilities Act.

16 "Revenue bond" means any bond, note, or other evidence of
17 indebtedness issued by the Authority, the principal and
18 interest of which is payable solely from revenues or income
19 derived from any project or activity of the Agency.

20 "Sequester" means permanent storage of carbon dioxide by
21 injecting it into a saline aquifer, a depleted ~~gas~~ reservoir,
22 or other pore space ~~or an oil reservoir, directly or through an~~
23 ~~enhanced oil recovery process that may involve intermediate~~
24 ~~storage, regardless of whether these activities are conducted~~
25 ~~by a clean coal facility, a clean coal SNG facility, a clean~~
26 ~~coal SNG brownfield facility, or a party with which a clean~~

1 ~~coal facility, clean coal SNG facility, or clean coal SNG~~
2 ~~brownfield facility has contracted for such purposes.~~

3 "Service area" has the same definition as found in Section
4 16-102 of the Public Utilities Act.

5 "Settlement period" means the period of time utilized by
6 MISO and PJM and their successor organizations as the basis
7 for settlement calculations in the real-time energy market.

8 "Sourcing agreement" means (i) in the case of an electric
9 utility, an agreement between the owner of a clean coal
10 facility and such electric utility, which agreement shall have
11 terms and conditions meeting the requirements of paragraph (3)
12 of subsection (d) of Section 1-75, (ii) in the case of an
13 alternative retail electric supplier, an agreement between the
14 owner of a clean coal facility and such alternative retail
15 electric supplier, which agreement shall have terms and
16 conditions meeting the requirements of Section 16-115(d)(5) of
17 the Public Utilities Act, and (iii) in case of a gas utility,
18 an agreement between the owner of a clean coal SNG brownfield
19 facility and the gas utility, which agreement shall have the
20 terms and conditions meeting the requirements of subsection
21 (h-1) of Section 9-220 of the Public Utilities Act.

22 "Strike price" means a contract price for energy and
23 renewable energy credits from a new utility-scale wind project
24 or a new utility-scale photovoltaic project.

25 "Subscriber" means a person who (i) takes delivery service
26 from an electric utility, and (ii) has a subscription of no

1 less than 200 watts to a community renewable generation
2 project that is located in the electric utility's service
3 area. No subscriber's subscriptions may total more than 40% of
4 the nameplate capacity of an individual community renewable
5 generation project. Entities that are affiliated by virtue of
6 a common parent shall not represent multiple subscriptions
7 that total more than 40% of the nameplate capacity of an
8 individual community renewable generation project.

9 "Subscription" means an interest in a community renewable
10 generation project expressed in kilowatts, which is sized
11 primarily to offset part or all of the subscriber's
12 electricity usage.

13 "Substitute natural gas" or "SNG" means a gas manufactured
14 by gasification of hydrocarbon feedstock, which is
15 substantially interchangeable in use and distribution with
16 conventional natural gas.

17 "Total resource cost test" or "TRC test" means a standard
18 that is met if, for an investment in energy efficiency or
19 demand-response measures, the benefit-cost ratio is greater
20 than one. The benefit-cost ratio is the ratio of the net
21 present value of the total benefits of the program to the net
22 present value of the total costs as calculated over the
23 lifetime of the measures. A total resource cost test compares
24 the sum of avoided electric utility costs, representing the
25 benefits that accrue to the system and the participant in the
26 delivery of those efficiency measures and including avoided

1 costs associated with reduced use of natural gas or other
2 fuels, avoided costs associated with reduced water
3 consumption, and avoided costs associated with reduced
4 operation and maintenance costs, as well as other quantifiable
5 societal benefits, to the sum of all incremental costs of
6 end-use measures that are implemented due to the program
7 (including both utility and participant contributions), plus
8 costs to administer, deliver, and evaluate each demand-side
9 program, to quantify the net savings obtained by substituting
10 the demand-side program for supply resources. In calculating
11 avoided costs of power and energy that an electric utility
12 would otherwise have had to acquire, reasonable estimates
13 shall be included of financial costs likely to be imposed by
14 future regulations and legislation on emissions of greenhouse
15 gases. In discounting future societal costs and benefits for
16 the purpose of calculating net present values, a societal
17 discount rate based on actual, long-term Treasury bond yields
18 should be used. Notwithstanding anything to the contrary, the
19 TRC test shall not include or take into account a calculation
20 of market price suppression effects or demand reduction
21 induced price effects.

22 "Utility-scale solar project" means an electric generating
23 facility that:

24 (1) generates electricity using photovoltaic cells;

25 and

26 (2) has a nameplate capacity that is greater than

1 5,000 kilowatts.

2 "Utility-scale wind project" means an electric generating
3 facility that:

4 (1) generates electricity using wind; and

5 (2) has a nameplate capacity that is greater than
6 5,000 kilowatts.

7 "Waste Heat to Power Systems" means systems that capture
8 and generate electricity from energy that would otherwise be
9 lost to the atmosphere without the use of additional fuel.

10 "Zero emission credit" means a tradable credit that
11 represents the environmental attributes of one megawatt hour
12 of energy produced from a zero emission facility.

13 "Zero emission facility" means a facility that: (1) is
14 fueled by nuclear power; and (2) is interconnected with PJM
15 Interconnection, LLC or the Midcontinent Independent System
16 Operator, Inc., or their successors.

17 (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-28-23;
18 103-380, eff. 1-1-24.)

19 (20 ILCS 3855/1-80)

20 Sec. 1-80. Resource Development Bureau. Upon its
21 establishment by the Agency, the Resource Development Bureau
22 has the following duties and responsibilities:

23 (a) At the Agency's discretion, conduct feasibility
24 studies on the construction of any facility. Funding for a
25 study shall come from either:

1 (i) fees assessed by the Agency on municipal
2 electric systems, governmental aggregators, unit or
3 units of local government, or rural electric
4 cooperatives requesting the feasibility study; or

5 (ii) an appropriation from the General Assembly.

6 (b) If the Agency undertakes the construction of a
7 facility, moneys generated from the sale of revenue bonds
8 by the Authority for the facility shall be used to
9 reimburse the source of the money used for the facility's
10 feasibility study.

11 (c) The Agency may develop, finance, construct, or
12 operate electric generation and co-generation facilities
13 that use ~~indigenous coal or~~ renewable resources, ~~or both,~~
14 financed with bonds issued by the Authority on behalf of
15 the Agency. ~~Any such facility that uses coal must be a~~
16 ~~clean coal facility and must be constructed in a location~~
17 ~~where the geology is suitable for carbon sequestration.~~
18 ~~The Agency may also develop, finance, construct, or~~
19 ~~operate a carbon sequestration facility.~~

20 (1) The Agency may enter into contractual
21 arrangements with private and public entities,
22 including but not limited to municipal electric
23 systems, governmental aggregators, and rural electric
24 cooperatives, to plan, site, construct, improve,
25 rehabilitate, and operate those electric generation
26 and co-generation facilities. No contract shall be

1 entered into by the Agency that would jeopardize the
2 tax-exempt status of any bond issued in connection
3 with a project for which the Agency entered into the
4 contract.

5 (2) The Agency shall hold at least one public
6 hearing before entering into any such contractual
7 arrangements. At least 30-days' notice of the hearing
8 shall be given by publication once in each week during
9 that period in 6 newspapers within the State, at least
10 one of which has a circulation area that includes the
11 location of the proposed facility.

12 (3) (Blank). ~~The first facility that the Agency~~
13 ~~develops, finances, or constructs shall be a facility~~
14 ~~that uses coal produced in Illinois. The Agency may,~~
15 ~~however, also develop, finance, or construct renewable~~
16 ~~energy facilities after work on the first facility has~~
17 ~~commenced.~~

18 (4) The Agency may not develop, finance, or
19 construct a nuclear power plant.

20 (5) The Agency shall assess fees to applicants
21 seeking to partner with the Agency on projects.

22 (d) Use of electricity generated by the Agency's
23 facilities. The Agency may supply electricity produced by
24 the Agency's facilities to municipal electric systems,
25 governmental aggregators, or rural electric cooperatives
26 in Illinois. The electricity shall be supplied at cost.

1 (1) Contracts to supply power and energy from the
2 Agency's facilities shall provide for the effectuation
3 of the policies set forth in this Act.

4 (2) The contracts shall also provide that,
5 notwithstanding any provision in the Public Utilities
6 Act, entities supplied with power and energy from an
7 Agency facility shall supply the power and energy to
8 retail customers at the same price paid to purchase
9 power and energy from the Agency.

10 (e) Electric utilities shall not be required to purchase
11 electricity directly or indirectly from facilities developed
12 or sponsored by the Agency.

13 (f) The Agency may sell excess capacity and excess energy
14 into the wholesale electric market at prevailing market rates;
15 provided, however, the Agency may not sell excess capacity or
16 excess energy through the procurement process described in
17 Section 16-111.5 of the Public Utilities Act.

18 (g) The Agency shall not directly sell electric power and
19 energy to retail customers. Nothing in this paragraph shall be
20 construed to prohibit sales to municipal electric systems,
21 governmental aggregators, or rural electric cooperatives.

22 (Source: P.A. 99-536, eff. 7-8-16.)

23 Section 65. The Carbon Dioxide Transportation and
24 Sequestration Act is amended by changing Sections 10, 15, and
25 20 as follows:

1 (220 ILCS 75/10)

2 Sec. 10. Definitions. As used in this Act:

3 "Carbon dioxide pipeline" or "pipeline" has the meaning
4 given to those terms in Section 10 of the Carbon Dioxide
5 Transport and Storage Protections Act ~~means the in state~~
6 ~~portion of a pipeline, including appurtenant facilities,~~
7 ~~property rights, and easements, that are used exclusively for~~
8 ~~the purpose of transporting carbon dioxide to a point of sale,~~
9 ~~storage, enhanced oil recovery, or other carbon management~~
10 ~~application.~~

11 "Clean coal facility" has the meaning ascribed to that
12 term in Section 1-10 of the Illinois Power Agency Act.

13 "Clean coal SNG facility" has the meaning ascribed to that
14 term in Section 1-10 of the Illinois Power Agency Act.

15 "Commission" means the Illinois Commerce Commission.

16 "Sequester" has the meaning ascribed to that term in
17 Section 1-10 of the Illinois Power Agency Act.

18 "Transportation" or "transport" has the meaning given to
19 those terms in Section 10 of the Carbon Dioxide Transport and
20 Storage Protections Act ~~means the physical movement of carbon~~
21 ~~dioxide by pipeline conducted for a person's own use or~~
22 ~~account or the use or account of another person or persons.~~

23 (Source: P.A. 97-534, eff. 8-23-11.)

24 (220 ILCS 75/15)

1 Sec. 15. Scope. This Act applies to the application
2 process for the issuance of a certificate of authority by an
3 owner or operator of a pipeline designed, constructed, and
4 operated to transport and to sequester carbon dioxide ~~produced~~
5 ~~by a clean coal facility, by a clean coal SNG facility, or by~~
6 ~~any other source that will result in the reduction of carbon~~
7 ~~dioxide emissions from that source.~~

8 (Source: P.A. 97-534, eff. 8-23-11.)

9 (220 ILCS 75/20)

10 Sec. 20. Application.

11 (a) No person or entity may construct, operate, or repair
12 a carbon dioxide pipeline unless the person or entity
13 possesses a certificate of authority.

14 (a-5) Before filing an application for a certificate of
15 authority with the Commission, a person or entity seeking the
16 certificate must:

17 (1) obtain the following documents:

18 (A) a carbon dioxide pipeline routing permit
19 issued by the Illinois Environmental Protection Agency
20 under Section 9.21 of the Environmental Protection
21 Act;

22 (B) if the carbon dioxide to be transported by the
23 pipeline will be sequestered in the State, a carbon
24 dioxide sequestration permit issued by the Illinois
25 Environmental Protection Agency under Section 22.64 of

1 the Environmental Protection Act;

2 (C) if the carbon dioxide to be transported by the
3 pipeline will be sequestered outside of the State, a
4 Class VI carbon dioxide injection permit issued by the
5 United States Environmental Protection Agency under
6 the federal Safe Drinking Water Act;

7 (D) if the carbon dioxide to be transported by the
8 pipeline will be obtained, in whole or in part, from a
9 facility in the State, any carbon capture permits for
10 that carbon dioxide issued by the Illinois
11 Environmental Protection Agency under Section 9.21 of
12 the Environmental Protection Act; and

13 (E) if the carbon dioxide to be transported by the
14 pipeline will be obtained, in whole or in part, from a
15 facility or facilities outside the State,
16 documentation that contracts between the pipeline
17 developer and out-of-State capture facility for
18 transport of the carbon dioxide have been finalized;
19 and

20 (2) At least 30 days before filing the application for
21 a Certificate of Authority:

22 (A) send by certified U.S. Mail a notice to all
23 owners of real property within 2 miles of the intended
24 pipeline route or route width of the person or
25 entity's intent to file an application for a
26 Certificate of Authority for the pipeline; the notice

1 shall include a map of the intended pipeline route or
2 route width and state that the pipeline is proposed to
3 be located within 2 miles of the property; and

4 (B) provide notice to each unit of local
5 government within 2 miles of the proposed pipeline
6 route or route width and include a map of the proposed
7 pipeline route or route width; the applicant shall
8 also publish notice in a newspaper of general
9 circulation in each county where the pipeline is
10 proposed to be located.

11 (b) The Commission shall not open a docket on an
12 application for a certificate of authority to construct and
13 operate a carbon dioxide pipeline unless and until the
14 applicant has completed all of the following:

15 (1) submitted to the Commission, as part of its
16 application for a Certificate of Authority, the carbon
17 dioxide pipeline routing permit issued by the Illinois
18 Environmental Protection Agency under Section 9.21 of the
19 Environmental Protection Act, together with the
20 application materials submitted for that permit; if the
21 applicant seeks a route width under subsection (d) that
22 would allow the pipeline to be constructed outside of the
23 specific route approved by the Illinois Environmental
24 Protection Agency, it shall include a map of the proposed
25 route width in its application;

26 (2) submitted to the Commission, as part of its

1 application for a Certificate of Authority, any and all
2 authorizations to capture and sequester carbon dioxide
3 that the applicant must obtain under subsection (a-5);

4 (3) submitted to the Commission, as part of its
5 application for a Certificate of Authority, proof that it
6 has satisfied the notice requirements of subsection
7 (a-5)(2);

8 (4) demonstrated to the satisfaction of the Commission
9 that the applicant has filed any and all forms required to
10 be filed with the federal Pipeline and Hazardous Materials
11 Safety Administration in advance of constructing a carbon
12 dioxide pipeline;

13 (5) demonstrated to the satisfaction of the Commission
14 that the applicant has filed any and all applications for
15 permits required by the U.S. Army Corps of Engineers in
16 advance of constructing a carbon dioxide pipeline;

17 (6) demonstrated to the satisfaction of the Commission
18 that the applicant has entered into an agreement with the
19 Illinois Department of Agriculture that governs the
20 mitigation of agricultural impacts associated with the
21 construction of the proposed pipeline;

22 (7) submitted to the Commission, as part of its
23 application for a Certificate of Authority, the list
24 required to be complied under subsection (d) of Section
25 9.21 of the Environmental Protection Act, of all occupied
26 residences, businesses, schools, daycares, healthcare

1 facilities and High Consequence Areas located within 2
2 miles of the proposed pipeline route, together with
3 certification that all units of local government within 2
4 miles of the proposed pipeline route have been given the
5 list;

6 (8) submitted to the Commission, as part of its
7 application for a Certificate of Authority, proof of
8 insurance to cover injuries, damages, or losses related to
9 a release of carbon dioxide from the pipeline in the
10 amount of at least \$250,000,000, from an insurance carrier
11 authorized, licensed, or permitted to provide insurance
12 coverage in this State and that holds at least an A- rating
13 by an American credit rating agency that focuses on the
14 insurance industry;

15 (9) submitted to the Commission, as part of its
16 application for a Certificate of Authority, proof that it
17 has obtained a performance bond or other financial
18 assurance sufficient to cover the cost of emergency
19 response and remediation for any pipeline leak or failure,
20 in the form of a trust fund, a surety bond guaranteeing
21 payment, a surety bond guaranteeing performance, or an
22 irrevocable letter of credit consistent with rules adopted
23 by the Commission;

24 (10) submitted to the Commission, as part of its
25 application for a Certificate of Authority, an economic
26 analysis and supporting documentation identifying any

1 economic benefits to local governments or the State
2 associated with the proposed pipeline; the anticipated
3 number of jobs to be created by the pipeline project; and
4 any job commitments, including, but not limited to,
5 contracts or agreements, the applicant has made to local
6 contractors or unions;

7 (11) submitted to the Commission any other documents
8 or information the Commission deems necessary to be
9 included in an application for a Certificate of Authority;
10 and

11 (12) posted its complete application for a Certificate
12 of Authority, including all documents required by this
13 subsection (b), on a public website that must be available
14 to the public without a password, sign-in, or other
15 registration.

16 (b-1) Any entity or person who intervenes, in accordance
17 with the Commission's rules, in the docket of an application
18 for a certificate of authority for a carbon dioxide pipeline,
19 shall be afforded the opportunity to call witnesses to testify
20 during the public hearing referenced in subsection (c).

21 (c) ~~(b)~~ The Commission, after a hearing, may grant an
22 application for a certificate of authority authorizing the
23 construction and operation of a carbon dioxide pipeline if it
24 makes a specific written finding as to each of the following:

25 (1) the application was properly filed;

26 (2) the applicant is fit, willing, and able to

1 construct and operate the pipeline in compliance with this
2 Act and with Commission regulations and orders of the
3 Commission or any applicable federal agencies;

4 (3) the applicant has entered into an agreement with a
5 clean coal facility, a clean coal SNG facility, or any
6 other source that will result in the reduction of carbon
7 dioxide emissions from that source;

8 (4) the applicant has submitted all documentation and
9 information required by subsection (b) ~~filed with the~~
10 ~~Pipeline and Hazardous Materials Safety Administration of~~
11 ~~the U.S. Department of Transportation all forms required~~
12 ~~by that agency in advance of constructing a carbon dioxide~~
13 ~~pipeline;~~

14 ~~(5) the applicant has filed with the U.S. Army Corps~~
15 ~~of Engineers all applications for permits required by that~~
16 ~~agency in advance of constructing a carbon dioxide~~
17 ~~pipeline;~~

18 ~~(6) the applicant has entered into an agreement with~~
19 ~~the Illinois Department of Agriculture that governs the~~
20 ~~mitigation of agricultural impacts associated with the~~
21 ~~construction of the proposed pipeline;~~

22 (5) ~~(7)~~ the applicant possesses the financial,
23 managerial, legal, and technical qualifications necessary
24 to construct and operate the proposed carbon dioxide
25 pipeline; ~~and~~

26 (6) the applicant has submitted proof that it has

1 obtained an easement, lease, or title from all persons
2 owning any portion of the property the applicant seeks to
3 use for the construction, maintenance, or operation of the
4 proposed carbon dioxide pipeline;

5 (7) the applicant has demonstrated that ~~(8)~~ the
6 proposed pipeline is consistent with the public interest
7 and ~~7~~ public benefit and the benefits of the proposed
8 pipeline exceed any and all risks to residents of the
9 State ~~, and legislative purpose as set forth in this Act.~~

10 In addition to any other evidence the Commission may
11 consider on this specific finding, the Commission shall
12 consider the following:

13 (A) any evidence of the effect of the pipeline
14 upon the economy, infrastructure, environment, and
15 public safety presented by local governmental units
16 and intervenors that will be affected by the proposed
17 pipeline route;

18 (B) any evidence of the effect of the pipeline
19 upon property values presented by property owners who
20 will be affected by the proposed pipeline or facility,
21 provided that the Commission need not hear evidence as
22 to the actual valuation of property such as that as
23 would be presented to and determined by the courts
24 under the Eminent Domain Act;

25 (C) any evidence presented by the Department of
26 Commerce and Economic Opportunity regarding the

1 current and future local, State-wide, or regional
2 economic effect, direct or indirect, of the proposed
3 pipeline or facility including, but not limited to,
4 ability of the State to attract economic growth, meet
5 future energy requirements, and ensure compliance with
6 environmental requirements and goals;

7 (D) any evidence addressing the factors described
8 in items (1) through (7) ~~(8)~~ of this subsection (c) ~~(b)~~
9 or other relevant factors that is presented by any
10 other State agency, the applicant, a party, or other
11 entity that participates in the proceeding, including
12 evidence presented by the Commission's staff; ~~and~~

13 (E) written or oral public comments offered at the
14 public hearing or before the deadline set by the
15 Commission under subsection (f); and

16 (F) any evidence presented by any State or federal
17 governmental entity as to how the proposed pipeline
18 will affect the security, stability, and reliability
19 of energy.

20 In its written order, the Commission shall address all of
21 the evidence presented, and if the order is contrary to any of
22 the evidence, the Commission shall state the reasons for its
23 determination with regard to that evidence.

24 (c) (Blank). ~~When an applicant files its application for a~~
25 ~~certificate of authority with the Commission, it shall provide~~
26 ~~notice to each local government where the proposed pipeline~~

1 ~~will be located and include a map of the proposed pipeline~~
2 ~~route. The applicant shall also publish notice in a newspaper~~
3 ~~of general circulation in each county where the proposed~~
4 ~~pipeline is located.~~

5 (d) An application for a certificate of authority filed
6 pursuant to this Section shall request either that the
7 Commission review and approve the route approved by the
8 Illinois Environmental Protection Agency pursuant to Section
9 9.21 of the Environmental Protection Act ~~a specific route for~~
10 ~~a carbon dioxide pipeline,~~ or that the Commission review and
11 approve a project route width that authorizes construction of
12 the pipeline within a pipeline right-of-way that extends 100
13 feet in either direction from the route approved by the
14 Illinois Environmental Protection Agency ~~identifies the areas~~
15 ~~in which the pipeline would be located, with such width~~
16 ~~ranging from the minimum width required for a pipeline~~
17 ~~right of way up to 200 feet in width. A map of the route or~~
18 ~~route width shall be included in the application. The purpose~~
19 ~~for allowing the option of review and approval of a project~~
20 ~~route width is to provide increased flexibility during the~~
21 ~~construction process to accommodate specific landowner~~
22 ~~requests, avoid environmentally sensitive areas, or address~~
23 ~~special environmental permitting requirements.~~

24 (e) ~~The Commission's rules shall ensure that notice of an~~
25 ~~application for a certificate of authority is provided within~~
26 ~~30 days after filing to the landowners along a proposed~~

1 ~~project route, or to the potentially affected landowners~~
2 ~~within a proposed project route width, using the notification~~
3 ~~procedures set forth in the Commission's rules. If the~~
4 Commission grants approval of a project route width as opposed
5 to a specific project route, then the applicant must, at least
6 14 days in advance of beginning construction on any tract
7 within the project route width ~~as it finalizes the actual~~
8 ~~pipeline alignment within the project route width, file with~~
9 the Commission a final revised carbon dioxide pipeline routing
10 permit issued by the Illinois Environmental Protection Agency
11 under Section 9.21 of the Environmental Protection Act,
12 approving the final route, together with its final list of
13 ~~affected~~ landowners with real property within 2 miles of the
14 pipeline route ~~the Commission at least 14 days in advance of~~
15 ~~beginning construction on any tract within the project route~~
16 ~~width and also provide the Commission with at least 14 days'~~
17 ~~notice before filing a complaint for eminent domain in the~~
18 ~~circuit court with regard to any tract within the project~~
19 ~~route width.~~

20 (f) Either during or within 10 days after the evidentiary
21 hearing held on the application for the Certificate of
22 Authority, the Commission shall host a public hearing to
23 receive oral public comments about the application. The
24 hearing shall be scheduled at a time and place that
25 facilitates public participation, and shall begin with a brief
26 presentation by the Commission of the proposed permit and the

1 standards for granting a certificate of authority. Time limits
2 for each public comment shall not be less than 10 minutes and
3 the total time for public comment shall not be less than 5
4 hours, provided, however, that all attendees who arrived
5 during that 5-hour period who wish to offer comment shall be
6 afforded the opportunity to do so. The Commission shall set a
7 deadline of no earlier than 30 days following the public
8 hearing required by this subsection to receive written public
9 comments.

10 (g) ~~(f)~~ The Commission shall make its determination on any
11 application for a certificate of authority filed pursuant to
12 this Section and issue its final order within 11 months after
13 the date that the application is filed. The Commission's
14 failure to act within this time period shall not be deemed an
15 approval or denial of the application.

16 (h) ~~(g)~~ A final order of the Commission granting a
17 certificate of authority pursuant to this Act shall be
18 conditioned upon the applicant obtaining all required permits
19 or approvals from the Pipeline and Hazardous Materials Safety
20 Administration of the U.S. Department of Transportation, U.S.
21 Army Corps of Engineers, ~~and~~ Illinois Department of
22 Agriculture, and Illinois Environmental Protection Agency, in
23 addition to all other permits and approvals necessary for the
24 construction and operation of the pipeline prior to the start
25 of any construction. The final order must specifically
26 prohibit the start of any construction until all such permits

1 and approvals have been obtained.

2 (i) Once the Commission has entered an order approving
3 either a specific route or route width under this Section, the
4 holder of the certificate of authority may not deviate from
5 the route approved by the Commission and the Environmental
6 Protection Agency without first:

7 (1) obtaining a revised carbon dioxide routing permit
8 from the Environmental Protection Agency under Section
9 9.21 of the Environmental Protection Act, approving all
10 proposed route deviations; and

11 (2) filing with the Commission, and receiving
12 Commission approval of, supplemental applications for
13 deviations from the approved project route or route width.
14 ~~Each (h) Within 6 months after the Commission's entry of~~
15 ~~an order approving either a specific route or a project~~
16 ~~route width under this Section, the owner or operator of~~
17 ~~the carbon dioxide pipeline that receives that order may~~
18 ~~file supplemental applications for minor route deviations~~
19 ~~outside the approved project route width, allowing for~~
20 ~~additions or changes to the approved route to address~~
21 ~~environmental concerns encountered during construction or~~
22 ~~to accommodate landowner requests. The supplemental~~
23 application shall specifically detail the environmental
24 concerns or landowner requests prompting the route
25 changes, including the names of any landowners or entities
26 involved. Notice of a supplemental application shall be

1 provided to any State agency or unit of local government
2 that appeared in the original proceeding and to any
3 landowner affected by the proposed route deviation at the
4 time that supplemental application is filed. The route
5 deviations shall be approved by the Commission no sooner
6 than 90 days after all interested parties receive notice
7 of the supplemental application, unless a written
8 objection is filed to the supplemental application within
9 45 days after such notice is received. If a written
10 objection is filed, then the Commission shall issue an
11 order either granting or denying the route deviation
12 within 90 days after the filing of the objection. Hearings
13 on any such supplemental application shall be limited to
14 the reasonableness of the specific variance proposed, and
15 the issues of the public interest and benefit of the
16 project or fitness of the applicant shall be considered
17 only to the extent that the route deviation has raised new
18 concerns with regard to those issues.

19 (j) ~~(i)~~ A certificate of authority to construct and
20 operate a carbon dioxide pipeline issued by the Commission
21 shall contain and include ~~all of the following: (1)~~ a grant of
22 authority to construct and operate a carbon dioxide pipeline
23 as requested in the application, subject to the laws of this
24 State. ~~and~~

25 ~~(2) a limited grant of authority to take and acquire~~
26 ~~an easement in any property or interest in property for~~

1 ~~the construction, maintenance, or operation of a carbon~~
2 ~~dioxide pipeline in the manner provided for the exercise~~
3 ~~of the power of eminent domain under the Eminent Domain~~
4 ~~Act. The limited grant of authority shall be restricted~~
5 ~~to, and exercised solely for, the purpose of siting,~~
6 ~~rights of way, and easements appurtenant, including~~
7 ~~construction and maintenance. The applicant shall not~~
8 ~~exercise this power until it has used reasonable and good~~
9 ~~faith efforts to acquire the property or easement thereto.~~
10 ~~The applicant may thereafter use this power when the~~
11 ~~applicant determines that the easement is necessary to~~
12 ~~avoid unreasonable delay or economic hardship to the~~
13 ~~progress of activities carried out pursuant to the~~
14 ~~certificate of authority.~~

15 (k) In any instance where an applicant withdraws its
16 application for a Certificate of Authority and refiles an
17 application proposing the same or substantially similar route,
18 the applicant shall compensate any persons or entities that
19 intervened in the withdrawn proceeding for costs of
20 intervention and filing of any materials that are the same as,
21 or substantially similar to, those already filed by the person
22 or entity in the docket for the withdrawn application.

23 (l) If an applicant withdraws or is denied a permit for a
24 Certificate of Authority, anyone who has granted an easement
25 to the applicant for the construction, maintenance, or
26 operation of the proposed carbon dioxide pipeline shall have

1 the right to have the easement interest conveyed back in
2 return for any amounts paid to the applicant.

3 (Source: P.A. 97-534, eff. 8-23-11.)

4 (220 ILCS 75/5 rep.)

5 Section 70. The Carbon Dioxide Transportation and
6 Sequestration Act is amended by repealing Section 5.

7 Section 75. The Environmental Protection Act is amended by
8 changing Sections 21, 39, and 40 and by adding Sections 3.121,
9 3.132, 3.133, 3.134, 3.136, 3.281, 3.446, 3.447, 9.20, 9.21,
10 and 22.64 as follows:

11 (415 ILCS 5/3.121 new)

12 Sec. 3.121. Area of review. "Area of review" for each
13 sequestration facility, has the same meaning as the "area of
14 review" specified in the Class VI permit issued to that
15 sequestration facility under the federal Safe Drinking Water
16 Act by either the United States Environmental Protection
17 Agency or, if the State obtains primacy, a State agency
18 authorized to issue Class VI permits for sequestration of
19 carbon dioxide.

20 (415 ILCS 5/3.132 new)

21 Sec. 3.132. Carbon dioxide capture project. "Carbon
22 dioxide capture project" or "capture project" means a project

1 or facility that (1) uses equipment to capture a significant
2 quantity of carbon dioxide directly from the ambient air or
3 uses a process to separate carbon dioxide from industrial or
4 energy-related sources, other than oil or gas production from
5 a well, and (2) produces a concentrated fluid of carbon
6 dioxide. "Carbon dioxide capture project" includes carbon
7 dioxide captured as part of a research and development project
8 or a project funded by research and development funds, unless
9 the operator demonstrates to the satisfaction of the Agency
10 that the project meets criteria for exclusion as a research
11 and development project under rules adopted by the Board under
12 paragraph (9) of subsection (g) of Section 9.21.

13 (415 ILCS 5/3.133 new)

14 Sec. 3.133. Carbon dioxide pipeline. "Carbon dioxide
15 pipeline" has the meaning given to that term in Section 10 of
16 the Carbon Dioxide Transportation and Sequestration Act.

17 (415 ILCS 5/3.134 new)

18 Sec. 3.134. Concentrated carbon dioxide fluid.
19 "Concentrated carbon dioxide fluid" means a fluid that
20 contains concentrated carbon dioxide that is proportionately
21 greater than the ambient atmospheric concentration of carbon
22 dioxide.

23 (415 ILCS 5/3.136 new)

1 Sec. 3.136. Confining zone. "Confining zone" means a
2 geologic formation, a group of geologic formations, or part of
3 a geologic formation stratigraphically overlying a zone of
4 carbon dioxide injection that acts as a barrier to fluid
5 movement.

6 (415 ILCS 5/3.281 new)

7 Sec. 3.281. Mahomet Aquifer. "Mahomet Aquifer" means the
8 aquifer designated as a sole-source aquifer by the United
9 States Environmental Protection Agency under the federal Safe
10 Drinking Water Act, together with its upstream areas, as
11 identified by the United States Environmental Protection
12 Agency in the map of the Mahomet Aquifer Project Review Area.

13 (415 ILCS 5/3.446 new)

14 Sec. 3.446. Sequestration. "Sequestration" has the meaning
15 given to that term in Section 10 of the Carbon Dioxide
16 Transport and Storage Protections Act.

17 (415 ILCS 5/3.447 new)

18 Sec. 3.447. Sequestration facility. "Sequestration
19 facility" has the meaning given to that term in Section 10 of
20 the Carbon Dioxide Transport and Storage Protections Act.

21 (415 ILCS 5/9.20 new)

22 Sec. 9.20. Setbacks from carbon dioxide pipelines.

1 (a) The General Assembly finds that:

2 (1) Carbon dioxide is an asphyxiant. A carbon dioxide
3 leak from a carbon dioxide pipeline poses a risk of grave
4 harm to human health and the environment.

5 (2) Setbacks from occupied structures and high-density
6 areas are necessary to protect against potential harm from
7 carbon dioxide pipeline leaks.

8 (a-5) The purpose of this Section is to promote a
9 healthful environment, including, but not limited to, clean
10 water, air, and land, meaningful public involvement, and to
11 ensure only responsible pipeline transport of carbon dioxide
12 is conducted in the State to protect public health and to
13 prevent pollution of the environment.

14 (a-10) The provisions of this Section shall be liberally
15 construed to carry out the purposes of this Section.

16 (b) As used in this Section:

17 (1) "Environmental justice community" means the
18 definition of that term based on existing methodologies
19 and findings used and as may be updated by the Illinois
20 Power Agency and its program administrator in the Illinois
21 Solar for All Program.

22 (2) "Geohazards" means any dynamic geologic, edaphic,
23 and meteorological conditions that could affect the
24 stability and safety of a carbon dioxide pipeline,
25 including, but not limited to, slope instability, frost
26 heave, soil settlement, erosion, earthquakes, or mine

1 subsidence.

2 (3) "High Consequence Area" means:

3 (A) a High Consequence Area as defined at 49 CFR
4 195.450;

5 (B) any area that has a concentration of 10 or more
6 residences within a square mile that is located within
7 one mile of the proposed route of a proposed carbon
8 dioxide pipeline;

9 (C) sensitive locations, such as hospitals and
10 other medical facilities, schools and day care
11 centers, nursing homes and other senior living
12 facilities, prisons, and other areas where decreased
13 mobility may require additional time and personnel to
14 evacuate;

15 (D) locations where people congregate, such as
16 commercial and office districts; industry or business
17 parks; recreational facilities such as stadiums,
18 parks, golf courses, and clubs; cultural and
19 governmental facilities; historic areas; transit
20 stations; and places of worship;

21 (E) concentrated animal feeding operations or
22 concentrations of livestock; or

23 (F) national or state-designated wildlife refuge
24 areas or zoos.

25 (c) No person may transport carbon dioxide through a
26 pipeline in the State without first obtaining a carbon dioxide

1 pipeline routing permit from the Agency under this Section.

2 (d) Before submitting an application for a carbon dioxide
3 pipeline routing permit to the Agency, any person who seeks to
4 transport carbon dioxide through a pipeline in this State
5 must:

6 (1) compile an accurate, verified list of all occupied
7 residences, businesses, schools, daycares, healthcare
8 facilities and High Consequence Areas located within 2
9 miles of its proposed pipeline route, which list it shall
10 submit, during the consultation process specified in
11 paragraph (2) of this subsection (d), to all units of
12 local government located within 2 miles of the proposed
13 pipeline route;

14 (2) consult, in open meetings subject to the Open
15 Meetings Act, with the governing bodies of all units of
16 local government, as defined in Article VII of the
17 Illinois Constitution, located within 2 miles of the
18 proposed pipeline route concerning:

19 (A) zoning requirements for the proposed route;

20 (B) future development plans along the proposed
21 route;

22 (C) development projects in process along the
23 proposed route;

24 (D) planned growth along the proposed route, as
25 indicated in a comprehensive land use plan developed
26 by or for that governing body, including any planned

1 growth that could not occur if the proposed pipeline
2 were constructed and operated;

3 (E) any mitigation planning for the proposed route
4 by counties or regional planning commissions;

5 (F) any existing emergency response planning for
6 the propose route;

7 (G) road use, any road bonding, and the location
8 of road crossings and road repair along the proposed
9 route;

10 (H) the location of any county and municipal land
11 and right-of-way agreements along the proposed route;

12 (I) any Geohazards along the proposed route;

13 (J) the location of any hazardous liquid or
14 natural gas pipelines along the proposed route;

15 (K) plans for pipeline abandonment or removal once
16 it is no longer in use; and

17 (L) other relevant information as determined by
18 the government body;

19 (3) meet with emergency management personnel of each
20 unit of local government within 2 miles of the pipeline
21 route to present the results of modeling performed in
22 accordance with subsection (e) and discuss any needs to
23 ensure the timely rescue of persons if a rupture or leak of
24 the proposed carbon dioxide pipeline occurs, including,
25 but not limited to:

26 (A) staffing needs;

1 (B) training and training material needs;

2 (C) methods to ensure effective and timely
3 communication with the pipeline operator;

4 (D) advanced sensors or other methods of real-time
5 monitoring to allow for prompt identification and
6 closure of any segment of the pipeline where a leak or
7 rupture occurs;

8 (E) alarm systems to alert first responders and
9 the public of a pipeline rupture or leak;

10 (F) emergency response and public evacuation
11 plans;

12 (G) equipment, including, but not limited to, air
13 supply respirators and electric vehicles; and

14 (H) funding needs, as well as source of funding
15 and timing for receipt of funds, to ensure the needs of
16 this subsection (3) are met; and

17 (4) revise its proposed route to account for local
18 ordinances, zoning, and other input provided by units of
19 local government, first responders, and members of the
20 public consulted or who provided comment under this
21 subsection (d).

22 (e) The Board shall adopt rules establishing carbon
23 dioxide pipeline routing permit requirements and routing
24 criteria under this Section. The rules shall be proposed by
25 the Agency not later than 30 months after the effective date of
26 this Act and adopted by the Board not later than 2 years after

1 receipt of the Agency's proposal. The rules must, at a
2 minimum:

3 (1) establish routing criteria for carbon dioxide
4 pipelines that ensure pipelines are not constructed in
5 locations where they would pose an undue risk of harm to
6 people or animals; at a minimum, the criteria shall:

7 (A) establish maximum exposure limits, expressed
8 in the form of carbon dioxide concentrations and
9 duration of exposure, based on the carbon dioxide
10 pipeline setback study required by Section 45 of the
11 Carbon Dioxide Transport and Storage Protections Act
12 and other information the Board deems relevant;

13 (B) bar siting of carbon dioxide pipelines within
14 2 miles of an Environmental Justice Community; and

15 (C) require selection of a pipeline route that
16 avoids previously mined areas and avoids other
17 Geohazards to the maximum extent possible;

18 (2) set standards for conducting computational fluid
19 dynamic modeling, or updated modeling if more accurate
20 modeling is available, of potential ruptures and leaks
21 from each proposed carbon dioxide pipeline, which shall:

22 (A) require that modeling of potential ruptures or
23 leaks be conducted, at a minimum, for areas along the
24 proposed pipeline route that would be located within 2
25 miles of a High Consequence Area;

26 (B) include a requirement that the modeling domain

1 extend, at a minimum, 2 miles in all directions from
2 the proposed pipeline route or to the furthest
3 location where carbon dioxide concentrations could, in
4 a rupture event, reach 30,000 parts per million,
5 whichever is further;

6 (C) ensure that the modeling accounts for pipeline
7 diameter, flow rate, temperature, pressure, the
8 topography of the proposed pipeline route, the built
9 environment along the pipeline route, a range of
10 weather conditions, and other factors the Board deems
11 relevant;

12 (D) provide that the modeling must predict, as
13 accurately as possible, the dispersion of
14 concentrations of carbon dioxide in parts per million
15 and the duration of those concentrations as dispersion
16 occurs; and

17 (E) specify mechanisms to ensure that outdated
18 models are superseded by newer, updated models that
19 more accurately predict carbon dioxide dispersion in
20 the event of a carbon dioxide rupture or leak;

21 (3) establish application requirements for carbon
22 dioxide pipeline routing permits, which shall include, but
23 are not limited to:

24 (A) a map providing an overview of the entire
25 proposed pipeline route;

26 (B) an aerial map of the proposed pipeline route

1 and at least 2 miles to each side, with a scale of 1
2 inch to 400 feet or otherwise sufficient to allow
3 residents an understanding of the relationship between
4 the proposed pipeline and properties;

5 (C) information about the proposed pipeline,
6 including, but not limited to, diameter, flow rate,
7 pressure, temperature, and characteristics of the
8 carbon dioxide being transported therein;

9 (D) temperature and pressure of equipment
10 ancillary to the proposed pipeline, such as booster
11 stations;

12 (E) any geohazards present along the proposed
13 pipeline route;

14 (F) a report providing the assumptions, inputs,
15 and results of computational fluid dynamic dispersion
16 modeling conducted for the proposed pipeline, which
17 shall include a map or maps that:

18 (i) show all areas along the proposed route
19 where concentrations of carbon dioxide may reach
20 30,000 parts per million (3%);

21 (ii) identify the duration of concentration,
22 (iii) depict how soon after a pipeline rupture
23 or leaks concentrations of carbon dioxide are
24 projected to reach 3% or higher;

25 (iv) specify changes in concentration at 1,000
26 ppm increments; and

1 (v) extend to the furthest location where
2 carbon dioxide concentrations reach 30,000 parts
3 per million or 2 miles from the proposed pipeline
4 route, whichever is further;

5 (G) proposed setbacks from High Concentration
6 Areas, which shall be based on the computational fluid
7 dynamic modeling required by this Section, satisfy the
8 carbon dioxide pipeline routing criteria established
9 under this Section, and be accompanied by a
10 certification by the applicant attesting to the
11 modeling as the basis for proposed setbacks;

12 (H) a narrative explanation of how the setbacks
13 satisfy the routing criteria established under this
14 Section;

15 (I) any emergency response plan for a rupture or
16 leak of the proposed pipeline that the applicant has
17 developed or is developing to satisfy requirements of
18 other federal or state agencies;

19 (J) documents specifying the sources of carbon
20 dioxide to be transported in the proposed pipeline,
21 including, but not limited to, any agreements to
22 transport carbon dioxide and, if the source of carbon
23 dioxide is in-State, any permits for carbon dioxide
24 capture required by this Act;

25 (K) documents specifying the destination of the
26 carbon dioxide to be transported in the proposed

1 pipeline, including, but not limited to, any
2 agreements to transport the carbon dioxide to those
3 destinations and, if the carbon dioxide is to be
4 sequestered in the State, any permits for carbon
5 dioxide sequestration required by this Act;

6 (L) the list of occupied residences, businesses,
7 schools, day cares, health care facilities and High
8 Concentration Areas developed under subsection (d);

9 (M) certification of compliance with subsection
10 (d), together with a narrative explanation of how and
11 why the proposed route was changed, or not changed, in
12 response to feedback received during the consultation
13 process; and

14 (N) proof that the full permit application, with
15 all information required by this subsection, has been
16 posted on a public website that must be available to
17 the public without a password, sign-in, or other
18 registration;

19 (4) specify standards for review, approval, and denial
20 by the Agency of applications for a carbon dioxide
21 pipeline routing permit; the standards for denial must
22 include, but are not limited to, failure of the applicant
23 to:

24 (A) satisfy the routing criteria established under
25 this Section;

26 (B) properly implement and interpret the modeling

1 required under this Section;

2 (C) satisfy the consultation, permit application,
3 and public participation requirements established
4 under this Section;

5 (D) pay the permit fee established under
6 subsection (f); or

7 (E) demonstrate that the proposed pipeline will
8 not pose an undue risk of harm to humans and animals;

9 (5) specify procedures for meaningful public
10 participation in the issuance of carbon dioxide pipeline
11 routing permits, which shall include, but are not limited
12 to:

13 (A) public notice of the submission of carbon
14 dioxide pipeline routing permit applications, which
15 shall:

16 (i) be provided via notice by newspaper of
17 general circulation in all counties through which
18 the pipeline is proposed to pass; notice by direct
19 mail for all properties on, and within 2 miles of,
20 the proposed pipeline route; notice via email or,
21 where not available, U.S. mail to all units of
22 local government consulted under subsection (d);
23 notice by email to individuals who request to be
24 included on an email notice list for carbon
25 dioxide routing permits; and any other mechanisms
26 determined by the Board; and

1 (ii) include general information about the
2 proposed pipeline, including the proposed route of
3 the pipeline, the contents of the proposed
4 pipeline, and the diameter of the pipeline; the
5 public website where application materials have
6 been posted; and the fact that public meetings
7 shall be scheduled to receive input on the
8 proposed application;

9 (B) public meetings hosted by the Agency after the
10 submission of the permit application, in at least 50%
11 of the counties along the proposed pipeline route,
12 which shall:

13 (i) be in-person unless a public health
14 emergency requires otherwise, except for 2 virtual
15 meetings;

16 (ii) be scheduled at different times of the
17 day or evening to facilitate attendance;

18 (iii) be noticed in the same manner as the
19 notice of submission of a permit application under
20 Subsection (A), with the addition of the date,
21 time, and location of the hearing and the
22 opportunity to request interpretation services;

23 (iv) be attended by representatives of the
24 applicant who are knowledgeable about the
25 application;

26 (v) serve to inform the public of the

1 application, answer questions about the
2 application and carbon dioxide pipelines, and
3 allow for input relevant to the standards for
4 issuance of a carbon dioxide pipeline routing
5 permit;

6 (vi) provide ample time for public comments
7 and questions, with a maximum time limit of no
8 less than 10 minutes per comment and no limit on
9 the number of comments or questions an attendee
10 may raise; and

11 (vii) be recorded and transcribed, with
12 transcripts posted on a public website that must
13 be available to the public without a password,
14 sign-in, or other registration;

15 (C) an opportunity of no less than 45 days for the
16 submission of public comments on a draft permit or
17 permit denial before the final permitting decision;

18 (D) an opportunity for at least one public hearing
19 for every 100 miles of pipeline on the draft permit or
20 permit denial to provide the Agency oral or written
21 comments for consideration before the final permitting
22 decision;

23 (E) a summary and response of the comments
24 prepared by the Agency; and

25 (F) a requirement that the draft and final
26 permitting actions by the Agency and the Agency's

1 response to comments be posted on a public website
2 that must be available to the public without a
3 password, sign-in, or other registration;

4 (6) when a carbon dioxide pipeline is proposed to be
5 located within 2 miles of an area with a significant
6 proportion of residents with limited English proficiency,
7 specify further opportunities for public participation,
8 including, but not limited to, translations of relevant
9 documents into other languages and interpretation services
10 at public meetings and hearings;

11 (7) specify a procedure to identify areas with a
12 significant proportion of residents with limited English
13 proficiency for purposes of this Section;

14 (8) specify the circumstances under which a person
15 issued a carbon dioxide pipeline routing permit under this
16 Section must seek a revised permit, which shall include,
17 but are not limited to, instances where the Commerce
18 Commission has approved a Certificate of Authority for the
19 carbon dioxide pipeline under Section 20 of the Carbon
20 Dioxide Transportation and Sequestration Act with a route
21 that deviates, or may deviate, in any way from the route
22 approved by the Agency;

23 (9) specify the procedures for issuance of a revised
24 permit, which shall include, but are not limited to,
25 satisfaction of all requirements of this Section with
26 respect to any portion of the route that deviates from the

1 route approved by the Agency;

2 (10) specify the circumstances under which the Agency
3 may revoke a carbon dioxide pipeline routing permit;

4 (11) set requirements for notification and reporting
5 by the permittee, including, but not limited to:

6 (A) notification and reporting to the Agency of
7 geohazards, infrastructure, or other circumstances
8 that may affect the safe routing of the pipeline that
9 were unknown to or misunderstood by the permittee when
10 submitting the permit application;

11 (B) immediate notification to the Agency and the
12 Illinois Emergency Management Agency of any leak from,
13 or rupture of, the pipeline;

14 (C) notification and reporting to the Agency of
15 any changes in the source of the carbon dioxide
16 transported by the pipeline or the destination of the
17 carbon dioxide transported by the pipeline; and

18 (D) notification and reporting to the Agency of
19 the total annual volume and mass of carbon dioxide
20 transported by the pipeline; and

21 (E) notification to local governments, surface
22 owners, and tenants if, and when, a building,
23 business, or other area of public use is proposed or
24 constructed at a location that, if the pipeline
25 application had not yet been submitted, would result
26 in the pipeline failing to satisfy routing criteria;

1 and
2 (12) establish requirements for the decommissioning of
3 carbon dioxide pipelines once they are no longer in use;
4 in doing so, the Board shall consider circumstances where
5 the safest or least disruptive manner of decommissioning
6 is leaving the pipeline in place.

7 (f) Once the rules required by subsection (e) have been
8 adopted, the Agency shall calculate the cost it will bear to
9 implement the carbon dioxide pipeline routing permit program
10 and shall establish a permit fee sufficient to cover those
11 costs, which it may update periodically as the costs of
12 program implementation change.

13 (g) No adjusted standard, variance, or other regulatory
14 relief otherwise available under this Act may be granted for
15 the requirements of this Section.

16 (415 ILCS 5/9.21 new)

17 Sec. 9.21. Carbon dioxide capture.

18 (a) The General Assembly finds that:

19 (1) The capture of carbon dioxide from industrial
20 facilities, including, but not limited to, ethanol plants,
21 methane processing facilities, and electric-generation
22 facilities requires a significant amount of power to
23 undertake, the generation of which can increase harmful
24 air and water pollutants.

25 (2) The capture of carbon dioxide generally requires

1 significant volumes of water that could be used for
2 domestic, agricultural, recreational, or industrial uses.

3 (3) The capture of carbon dioxide from industrial and
4 electric-generation facilities has often failed to meet
5 objectives for capture and thus allowed more carbon
6 dioxide pollution into the atmosphere than proposed.

7 (4) The State has a long-standing policy to restore,
8 protect, and enhance the environment, including the purity
9 of the air, land, and waters, such as groundwaters, of
10 this State.

11 (5) A clean environment is essential to the growth and
12 well-being of this State.

13 (6) The capture of carbon dioxide from industrial and
14 electric-generation facilities will not achieve the
15 State's long-standing policy to restore, protect, and
16 enhance the environment unless clear standards are adopted
17 to require the reduction of air and water pollution
18 associated with carbon capture, to limit water use when
19 other important uses are in jeopardy, and to ensure that
20 carbon capture does not interfere with the State reaching
21 its clean energy goals.

22 (7) Meaningful participation of State residents,
23 especially vulnerable populations who may be affected by
24 regulatory actions, is critical to ensure that
25 environmental justice considerations are incorporated in
26 the development of, decision-making related to, and

1 implementation of environmental laws and rules that
2 protect and improve the well-being of communities in this
3 State that bear disproportionate burdens imposed by
4 environmental pollution.

5 (a-5) The purpose of this Section is to promote a
6 healthful environment, including clean water, air, and land,
7 meaningful public involvement, and to ensure only the
8 responsible capture of carbon dioxide occurs in the State so
9 as to protect public health and to prevent pollution of the
10 environment.

11 (a-10) The provisions of this Section shall be liberally
12 construed to carry out the purpose of this Section as stated in
13 subsection (a-5).

14 (b) A person who seeks to construct or operate a carbon
15 dioxide capture project in this State must first obtain a
16 permit from the Agency in accordance with the rules adopted
17 under subsection (g).

18 (c) A person who seeks to capture carbon dioxide from an
19 industrial or electric-generation facility in this State must,
20 before seeking a permit in accordance with the rules adopted
21 under subsection (g), first conduct an environmental impact
22 analysis. The environmental impact analysis must:

23 (1) include a statement of the purpose of and need for
24 the proposed carbon capture project;

25 (2) include a greenhouse gas (GHG) inventory analysis,
26 including, but not limited to, Scope 1, 2, and 3 emissions

1 set forth in guidance published by the United States
2 Environmental Protection Agency, of the total GHG
3 emissions associated with the capture, transportation, and
4 sequestration of the carbon dioxide proposed to be
5 captured, which emissions shall be expressed as carbon
6 dioxide equivalent, consistent with the United States
7 Environmental Protection Agency rules and guidance;

8 (3) demonstrate that the total Scope 1, 2, and 3
9 emissions associated with the capture, transportation, and
10 sequestration of the carbon dioxide proposed to be
11 captured, converted into carbon dioxide equivalent
12 consistent with United States Environmental Protection
13 Agency rules and guidance, will not exceed the total
14 amount of carbon dioxide from the capture project that is
15 sequestered over the life of the capture project;

16 (4) include a water impact analysis that details:

17 (A) the water sources likely to be impacted by the
18 capture of carbon dioxide from the facility;

19 (B) current uses of those water sources;

20 (C) potential or certain impacts to those water
21 sources from capture of carbon dioxide from the
22 facility, including, but not limited to, impacts on
23 water quantity, quality, and current uses of water;

24 (D) the duration of the impacts to water
25 associated with the capture of carbon dioxide from the
26 facility; and

1 (E) methods the applicant will use to minimize
2 both water use and impacts to water quality associated
3 with the carbon capture project.

4 If the person has previously submitted any of the
5 information required by this subsection to any State
6 agency in accordance with another State law, the person
7 may resubmit those documents, together with any associated
8 permits, to the Agency so long as the documents are
9 updated and remain accurate.

10 (5) include an alternatives analysis that evaluates
11 other reasonable alternatives for reducing the same
12 quantity of carbon dioxide as is proposed to be captured
13 at the facility while fulfilling the purpose and need for
14 the facility, including, but not limited to:

15 (A) if the carbon dioxide is proposed to be
16 captured at a facility that generates electricity,
17 energy-generation alternatives such as renewable
18 energy, energy storage, or energy efficiency;

19 (B) if the carbon dioxide is proposed to be
20 captured at a facility that produces fuel for motor
21 vehicles, aircraft, or equipment, alternatives such as
22 the use of electric vehicles, electric aircraft, or
23 alternative fuels; and

24 (C) if the carbon dioxide is proposed to be
25 captured at an industrial facility, alternative
26 processes that could reduce the amount of carbon

1 dioxide generated from that industry.

2 For each alternative identified under this paragraph,
3 the person seeking to capture carbon dioxide shall
4 complete a greenhouse gas emissions inventory analysis
5 consistent with paragraph (2) and a water impacts analysis
6 addressing the factors set out in paragraph (4); and

7 (6) be developed with public input, including, but not
8 limited to, by making a draft version of the analysis
9 available on a public website for not less than 60 days and
10 accepting comments on the proposed analysis for the
11 entirety of that 60-day period, together with a public
12 meeting at least 14 days after the posting of the draft on
13 the public website that provides a meaningful opportunity
14 for the public to ask questions, have those questions
15 answered, and provide comment on the draft; the final
16 environmental analysis must include responses to public
17 comments, identify all changes to the analysis made in
18 response to those comments, and be made available to the
19 public on a public website.

20 (d) No permit for the capture of carbon dioxide may be
21 issued unless:

22 (1) the Illinois State Water Survey has reviewed the
23 water impact analysis required under subsection (c) and,
24 taking into consideration that analysis, information
25 concerning water supply and uses, and public comments, has
26 concluded that the proposed carbon capture project will

1 not have significant adverse effects on water supply or
2 current or future potential uses of the water source; and

3 (2) the permit includes conditions, developed in
4 consultation with the Illinois State Water Survey and
5 taking public comments into consideration, under which the
6 project must reduce the volume or rate of water that may be
7 used for the capture of carbon dioxide, up to and
8 including the cessation of water usage for carbon capture.

9 (e) No permit for the capture of carbon dioxide may be
10 issued unless the permit applicant demonstrates that there
11 will be zero non-carbon dioxide air pollution emissions
12 associated with the carbon dioxide capture project; these
13 emissions include non-carbon dioxide air pollution emitted
14 directly by the operation of the carbon dioxide capture
15 equipment, and any increase in non-carbon dioxide air
16 pollution emissions at the facility, relative to the baseline,
17 following installation of the carbon dioxide capture
18 equipment. The applicant may meet this requirement by
19 demonstrating that:

20 (1) pollution control technology will be installed and
21 operated, or existing control technology will be operated,
22 so as to eliminate any non-carbon dioxide air emissions
23 associated with the use of carbon capture; or

24 (2) the facility will reduce operations sufficient to
25 eliminate any non-carbon dioxide air emissions associated
26 with the use of carbon capture.

1 The Board shall establish requirements by rule for
2 determining baseline emissions from each industrial or
3 electric-generation facility for purposes of determining which
4 non-carbon dioxide air emissions are associated with the use
5 of carbon capture at those facilities. For existing
6 facilities, the baseline shall be calculated using the
7 12-month average of emissions for the 3 12-month periods
8 before January 31, 2024. For new facilities, the baseline
9 shall be determined using the Best Available Control
10 Technology, as defined in Section 169 of the federal Clean Air
11 Act, for the relevant air pollutants and facility and assuming
12 fuel consumption and hours of operation of the facility
13 consistent with that of facilities of similar size.

14 (e-1) If the applicant proposes to use amines to capture
15 carbon dioxide, the applicant must demonstrate that it will:

16 (1) install and operate the Best Available Control
17 Technology, as defined in Section 169 of the federal Clean
18 Air Act, for nitrogen oxides, sulfur dioxide, particulate
19 matter, and any other pollutant that may combine with
20 amines to become a nitramine or nitrosamine, either in the
21 flue gas or once emitted into the atmosphere; and

22 (2) install and operate equipment or processes that
23 ensure that no amines, nitramines, or nitrosamines will be
24 released into the atmosphere.

25 (f) No permit for a carbon dioxide capture project may be
26 issued unless:

1 (1) the applicant identifies the end use or
2 destination of all carbon dioxide streams from the
3 proposed project;

4 (2) if the destination includes sequestration within
5 the State, the applicant demonstrates that the
6 sequestration site is permitted in accordance with Section
7 22.64;

8 (3) the applicant demonstrates that the project will
9 capture an annual average of no less than 90% of the total
10 carbon dioxide emissions from the facility, and the permit
11 disallows any capture rate lower than the rate
12 demonstrated by the applicant; and

13 (4) the permit disallows all non-carbon dioxide air
14 emissions associated with the use of carbon capture and
15 specifies each mechanism by which the applicant must meet
16 that condition.

17 (g) The Board shall adopt rules establishing permit
18 requirements under this Section and other standards for carbon
19 dioxide capture projects. The rules shall be proposed by the
20 Agency not later than one year after the effective date of this
21 Act and adopted by the Board not later than 2 years after
22 receipt of the Agency's proposal. The rules must, at a
23 minimum:

24 (1) be no less protective than federal requirements
25 for air pollution and water pollution that are in effect
26 on the effective date of this Act and any amendments to

1 those requirements that may be more protective;

2 (2) specify the minimum content of applications for a
3 permit to capture carbon dioxide, which shall include, but
4 shall not be limited to:

5 (A) the environmental impacts analyses required
6 under subsection (c);

7 (B) identification of whether the proposed carbon
8 capture project would take place in an area with a
9 significant proportion of residents with limited
10 English proficiency; and

11 (C) documentation and analyses sufficient to
12 demonstrate compliance with this Section and all
13 applicable rules adopted under this Section for the
14 capture of carbon dioxide;

15 (3) specify:

16 (A) the frequency at which permits for the capture
17 of carbon dioxide expire and must be renewed;

18 (B) the circumstances under which a permittee must
19 seek a permit modification; and

20 (C) the circumstances under which the Agency may
21 temporarily or permanently revoke a permit for the
22 capture of carbon dioxide;

23 (4) specify standards for review, approval, and denial
24 of applications for a permit to capture carbon dioxide by
25 the Agency; the standards for denial must include, but are
26 not limited to, failure of the applicant to submit an

1 application that meets the requirements of this Section or
2 to satisfy the requirements of subsections (d), (e),
3 (e-1), or (f);

4 (5) specify procedures for meaningful public
5 participation in the issuance of permits for the capture
6 of carbon dioxide, including, but not limited to:

7 (A) public notice of the submission of permit
8 applications, including, but not limited to, notice by
9 email for interested persons;

10 (B) a public meeting, hosted by the Agency, to
11 inform residents about the application and answer
12 questions about the application and carbon dioxide
13 capture projects;

14 (C) posting the full permit application, the draft
15 and final permitting actions by the Agency, and the
16 Agency's response to comments on a public website that
17 must be available to the public without a password,
18 sign-in, or other registration;

19 (D) an opportunity for the submission of public
20 comments on a draft permit or permit denial before the
21 final permitting decision;

22 (E) an opportunity for a public hearing on the
23 draft permit or permit denial before the final
24 permitting decision; and

25 (F) a summary of and response to the comments
26 prepared by the Agency;

1 (6) when the capture of carbon dioxide is proposed to
2 take place in an area with a significant proportion of
3 residents with limited English proficiency, specify
4 further opportunities for public participation, including,
5 but not limited to, translations of relevant documents
6 into other languages and interpretation services at public
7 meetings and hearings;

8 (7) specify a procedure to identify areas with a
9 significant proportion of residents with limited English
10 proficiency for purposes of this Section;

11 (8) establish minimum carbon capture efficiency rates
12 at or above 90% for different industries from which
13 applicants may seek to capture carbon dioxide, including
14 rates above 90% for industries in which carbon capture at
15 rates above 90% is technically achievable and has been
16 demonstrated;

17 (9) set out requirements for comprehensive and, where
18 technically available, continuous monitoring by
19 permittees, including, but not limited to, monitoring of:

20 (A) GHG pollution emissions;

21 (B) non-GHG air pollution emissions, including,
22 but not limited to, nitrogen oxides, sulfur dioxide,
23 particulate matter, amines, and nitrosamines; and

24 (C) water use;

25 (10) set out requirements for frequent, comprehensive
26 reporting by permittees to the Agency, including, but not

1 limited to:

2 (A) the non-carbon dioxide air emissions
3 associated with the use of carbon capture, including,
4 but not limited to, those emissions resulting from the
5 use of fuel to power the carbon capture process;

6 (B) GHG emissions associated with the use of
7 carbon capture;

8 (C) the total amount, in tons, of carbon dioxide
9 captured at the facility;

10 (D) the total amount, in tons, of carbon dioxide
11 not captured and released into the atmosphere at the
12 facility;

13 (E) the carbon dioxide capture rate achieved by
14 the facility;

15 (F) the date, time, duration, cause, and amount of
16 carbon dioxide released rather than captured as a
17 result of all outages or downtime of capture equipment
18 at the facility;

19 (G) information concerning water use and impacts
20 to water supply and uses associated with the use of
21 carbon capture at the facility; and

22 (H) the end use and destination of all carbon
23 dioxide streams from the project;

24 (11) establish criteria for the exclusion from
25 permitting requirements of carbon capture projects
26 performed for the purpose of, or financed by funding for,

1 research and development; the criteria shall ensure that
2 only those projects that capture small amounts of carbon
3 dioxide and pose minimal risk to human health and the
4 environment qualify for the exclusion;

5 (12) establish requirements for determining setbacks
6 from homes, schools, daycares, hospitals, and other
7 sensitive locations for capture projects that capture
8 carbon dioxide directly from the ambient air; and

9 (13) specify whether the permit requirements for
10 carbon dioxide capture set out in the rules may be added to
11 the requirements for a permit that a carbon dioxide
12 capture permit applicant is otherwise required to obtain,
13 or whether the applicant must obtain a separate permit for
14 the capture of carbon dioxide.

15 (h) Once the rules required by subsection (g) have been
16 adopted, the Agency shall calculate the cost it will bear to
17 implement the carbon capture permit program and shall
18 establish a permit fee sufficient to cover those costs, which
19 it may update periodically as the costs of program
20 implementation change.

21 (i) The permit requirements set forth in this Section are
22 in addition to any requirements set forth under any other
23 State or federal law, including, but not limited to, the
24 federal Clean Air Act, the federal Clean Water Act, the
25 federal Resource Conservation and Recovery Act, and the
26 federal Safe Drinking Water Act.

1 (j) Every 5 years, the Agency shall conduct a review to
2 identify the carbon dioxide capture efficiency rates being
3 achieved by different industries and, if higher rates have
4 become technologically feasible, propose to the Board
5 revisions to the minimum carbon capture efficiency rates set
6 out in the rules adopted under this Section.

7 (k) No adjusted standard, variance, or other regulatory
8 relief otherwise available under this Act may be granted from
9 the requirements of this Section.

10 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

11 Sec. 21. Prohibited acts. No person shall:

12 (a) Cause or allow the open dumping of any waste.

13 (b) Abandon, dump, or deposit any waste upon the public
14 highways or other public property, except in a sanitary
15 landfill approved by the Agency pursuant to regulations
16 adopted by the Board.

17 (c) Abandon any vehicle in violation of the "Abandoned
18 Vehicles Amendment to the Illinois Vehicle Code", as enacted
19 by the 76th General Assembly.

20 (d) Conduct any waste-storage, waste-treatment, or
21 waste-disposal operation:

22 (1) without a permit granted by the Agency or in
23 violation of any conditions imposed by such permit,
24 including periodic reports and full access to adequate
25 records and the inspection of facilities, as may be

1 necessary to assure compliance with this Act and with
2 regulations and standards adopted thereunder; provided,
3 however, that, except for municipal solid waste landfill
4 units that receive waste on or after October 9, 1993, and
5 CCR surface impoundments, no permit shall be required for
6 (i) any person conducting a waste-storage,
7 waste-treatment, or waste-disposal operation for wastes
8 generated by such person's own activities which are
9 stored, treated, or disposed within the site where such
10 wastes are generated, (ii) until one year after the
11 effective date of rules adopted by the Board under
12 subsection (n) of Section 22.38, a facility located in a
13 county with a population over 700,000 as of January 1,
14 2000, operated and located in accordance with Section
15 22.38 of this Act, and used exclusively for the transfer,
16 storage, or treatment of general construction or
17 demolition debris, provided that the facility was
18 receiving construction or demolition debris on August 24,
19 2009 (the effective date of Public Act 96-611), or (iii)
20 any person conducting a waste transfer, storage,
21 treatment, or disposal operation, including, but not
22 limited to, a waste transfer or waste composting
23 operation, under a mass animal mortality event plan
24 created by the Department of Agriculture;

25 (2) in violation of any regulations or standards
26 adopted by the Board under this Act;

1 (3) which receives waste after August 31, 1988, does
2 not have a permit issued by the Agency, and is (i) a
3 landfill used exclusively for the disposal of waste
4 generated at the site, (ii) a surface impoundment
5 receiving special waste not listed in an NPDES permit,
6 (iii) a waste pile in which the total volume of waste is
7 greater than 100 cubic yards or the waste is stored for
8 over one year, or (iv) a land treatment facility receiving
9 special waste generated at the site; without giving notice
10 of the operation to the Agency by January 1, 1989, or 30
11 days after the date on which the operation commences,
12 whichever is later, and every 3 years thereafter. The form
13 for such notification shall be specified by the Agency,
14 and shall be limited to information regarding: the name
15 and address of the location of the operation; the type of
16 operation; the types and amounts of waste stored, treated
17 or disposed of on an annual basis; the remaining capacity
18 of the operation; and the remaining expected life of the
19 operation.

20 Item (3) of this subsection (d) shall not apply to any
21 person engaged in agricultural activity who is disposing of a
22 substance that constitutes solid waste, if the substance was
23 acquired for use by that person on his own property, and the
24 substance is disposed of on his own property in accordance
25 with regulations or standards adopted by the Board.

26 This subsection (d) shall not apply to hazardous waste.

1 (e) Dispose, treat, store or abandon any waste, or
2 transport any waste into this State for disposal, treatment,
3 storage or abandonment, except at a site or facility which
4 meets the requirements of this Act and of regulations and
5 standards thereunder.

6 (f) Conduct any hazardous waste-storage, hazardous
7 waste-treatment or hazardous waste-disposal operation:

8 (1) without a RCRA permit for the site issued by the
9 Agency under subsection (d) of Section 39 of this Act, or
10 in violation of any condition imposed by such permit,
11 including periodic reports and full access to adequate
12 records and the inspection of facilities, as may be
13 necessary to assure compliance with this Act and with
14 regulations and standards adopted thereunder; or

15 (2) in violation of any regulations or standards
16 adopted by the Board under this Act; or

17 (3) in violation of any RCRA permit filing requirement
18 established under standards adopted by the Board under
19 this Act; or

20 (4) in violation of any order adopted by the Board
21 under this Act.

22 Notwithstanding the above, no RCRA permit shall be
23 required under this subsection or subsection (d) of Section 39
24 of this Act for any person engaged in agricultural activity
25 who is disposing of a substance which has been identified as a
26 hazardous waste, and which has been designated by Board

1 regulations as being subject to this exception, if the
2 substance was acquired for use by that person on his own
3 property and the substance is disposed of on his own property
4 in accordance with regulations or standards adopted by the
5 Board.

6 (g) Conduct any hazardous waste-transportation operation:

7 (1) without registering with and obtaining a special
8 waste hauling permit from the Agency in accordance with
9 the regulations adopted by the Board under this Act; or

10 (2) in violation of any regulations or standards
11 adopted by the Board under this Act.

12 (h) Conduct any hazardous waste-recycling or hazardous
13 waste-reclamation or hazardous waste-reuse operation in
14 violation of any regulations, standards or permit requirements
15 adopted by the Board under this Act.

16 (i) Conduct any process or engage in any act which
17 produces hazardous waste in violation of any regulations or
18 standards adopted by the Board under subsections (a) and (c)
19 of Section 22.4 of this Act.

20 (j) Conduct any special waste-transportation operation in
21 violation of any regulations, standards or permit requirements
22 adopted by the Board under this Act. However, sludge from a
23 water or sewage treatment plant owned and operated by a unit of
24 local government which (1) is subject to a sludge management
25 plan approved by the Agency or a permit granted by the Agency,
26 and (2) has been tested and determined not to be a hazardous

1 waste as required by applicable State and federal laws and
2 regulations, may be transported in this State without a
3 special waste hauling permit, and the preparation and carrying
4 of a manifest shall not be required for such sludge under the
5 rules of the Pollution Control Board. The unit of local
6 government which operates the treatment plant producing such
7 sludge shall file an annual report with the Agency identifying
8 the volume of such sludge transported during the reporting
9 period, the hauler of the sludge, and the disposal sites to
10 which it was transported. This subsection (j) shall not apply
11 to hazardous waste.

12 (k) Fail or refuse to pay any fee imposed under this Act.

13 (l) Locate a hazardous waste disposal site above an active
14 or inactive shaft or tunneled mine or within 2 miles of an
15 active fault in the earth's crust. In counties of population
16 less than 225,000 no hazardous waste disposal site shall be
17 located (1) within 1 1/2 miles of the corporate limits as
18 defined on June 30, 1978, of any municipality without the
19 approval of the governing body of the municipality in an
20 official action; or (2) within 1000 feet of an existing
21 private well or the existing source of a public water supply
22 measured from the boundary of the actual active permitted site
23 and excluding existing private wells on the property of the
24 permit applicant. The provisions of this subsection do not
25 apply to publicly owned sewage works or the disposal or
26 utilization of sludge from publicly owned sewage works.

1 (m) Transfer interest in any land which has been used as a
2 hazardous waste disposal site without written notification to
3 the Agency of the transfer and to the transferee of the
4 conditions imposed by the Agency upon its use under subsection
5 (g) of Section 39.

6 (n) Use any land which has been used as a hazardous waste
7 disposal site except in compliance with conditions imposed by
8 the Agency under subsection (g) of Section 39.

9 (o) Conduct a sanitary landfill operation which is
10 required to have a permit under subsection (d) of this
11 Section, in a manner which results in any of the following
12 conditions:

13 (1) refuse in standing or flowing waters;

14 (2) leachate flows entering waters of the State;

15 (3) leachate flows exiting the landfill confines (as
16 determined by the boundaries established for the landfill
17 by a permit issued by the Agency);

18 (4) open burning of refuse in violation of Section 9
19 of this Act;

20 (5) uncovered refuse remaining from any previous
21 operating day or at the conclusion of any operating day,
22 unless authorized by permit;

23 (6) failure to provide final cover within time limits
24 established by Board regulations;

25 (7) acceptance of wastes without necessary permits;

26 (8) scavenging as defined by Board regulations;

1 (9) deposition of refuse in any unpermitted portion of
2 the landfill;

3 (10) acceptance of a special waste without a required
4 manifest;

5 (11) failure to submit reports required by permits or
6 Board regulations;

7 (12) failure to collect and contain litter from the
8 site by the end of each operating day;

9 (13) failure to submit any cost estimate for the site
10 or any performance bond or other security for the site as
11 required by this Act or Board rules.

12 The prohibitions specified in this subsection (o) shall be
13 enforceable by the Agency either by administrative citation
14 under Section 31.1 of this Act or as otherwise provided by this
15 Act. The specific prohibitions in this subsection do not limit
16 the power of the Board to establish regulations or standards
17 applicable to sanitary landfills.

18 (p) In violation of subdivision (a) of this Section, cause
19 or allow the open dumping of any waste in a manner which
20 results in any of the following occurrences at the dump site:

21 (1) litter;

22 (2) scavenging;

23 (3) open burning;

24 (4) deposition of waste in standing or flowing waters;

25 (5) proliferation of disease vectors;

26 (6) standing or flowing liquid discharge from the dump

1 site;

2 (7) deposition of:

3 (i) general construction or demolition debris as
4 defined in Section 3.160(a) of this Act; or

5 (ii) clean construction or demolition debris as
6 defined in Section 3.160(b) of this Act.

7 The prohibitions specified in this subsection (p) shall be
8 enforceable by the Agency either by administrative citation
9 under Section 31.1 of this Act or as otherwise provided by this
10 Act. The specific prohibitions in this subsection do not limit
11 the power of the Board to establish regulations or standards
12 applicable to open dumping.

13 (q) Conduct a landscape waste composting operation without
14 an Agency permit, provided, however, that no permit shall be
15 required for any person:

16 (1) conducting a landscape waste composting operation
17 for landscape wastes generated by such person's own
18 activities which are stored, treated, or disposed of
19 within the site where such wastes are generated; or

20 (1.5) conducting a landscape waste composting
21 operation that (i) has no more than 25 cubic yards of
22 landscape waste, composting additives, composting
23 material, or end-product compost on-site at any one time
24 and (ii) is not engaging in commercial activity; or

25 (2) applying landscape waste or composted landscape
26 waste at agronomic rates; or

1 (2.5) operating a landscape waste composting facility
2 at a site having 10 or more occupied non-farm residences
3 within 1/2 mile of its boundaries, if the facility meets
4 all of the following criteria:

5 (A) the composting facility is operated by the
6 farmer on property on which the composting material is
7 utilized, and the composting facility constitutes no
8 more than 2% of the site's total acreage;

9 (A-5) any composting additives that the composting
10 facility accepts and uses at the facility are
11 necessary to provide proper conditions for composting
12 and do not exceed 10% of the total composting material
13 at the facility at any one time;

14 (B) the property on which the composting facility
15 is located, and any associated property on which the
16 compost is used, is principally and diligently devoted
17 to the production of agricultural crops and is not
18 owned, leased, or otherwise controlled by any waste
19 hauler or generator of nonagricultural compost
20 materials, and the operator of the composting facility
21 is not an employee, partner, shareholder, or in any
22 way connected with or controlled by any such waste
23 hauler or generator;

24 (C) all compost generated by the composting
25 facility, except incidental sales of finished compost,
26 is applied at agronomic rates and used as mulch,

1 fertilizer, or soil conditioner on land actually
2 farmed by the person operating the composting
3 facility, and the finished compost is not stored at
4 the composting site for a period longer than 18 months
5 prior to its application as mulch, fertilizer, or soil
6 conditioner;

7 (D) no fee is charged for the acceptance of
8 materials to be composted at the facility; and

9 (E) the owner or operator, by January 1, 2014 (or
10 the January 1 following commencement of operation,
11 whichever is later) and January 1 of each year
12 thereafter, registers the site with the Agency, (ii)
13 reports to the Agency on the volume of composting
14 material received and used at the site; (iii)
15 certifies to the Agency that the site complies with
16 the requirements set forth in subparagraphs (A),
17 (A-5), (B), (C), and (D) of this paragraph (2.5); and
18 (iv) certifies to the Agency that all composting
19 material was placed more than 200 feet from the
20 nearest potable water supply well, was placed outside
21 the boundary of the 10-year floodplain or on a part of
22 the site that is floodproofed, was placed at least 1/4
23 mile from the nearest residence (other than a
24 residence located on the same property as the
25 facility) or a lesser distance from the nearest
26 residence (other than a residence located on the same

1 property as the facility) if the municipality in which
2 the facility is located has by ordinance approved a
3 lesser distance than 1/4 mile, and was placed more
4 than 5 feet above the water table; any ordinance
5 approving a residential setback of less than 1/4 mile
6 that is used to meet the requirements of this
7 subparagraph (E) of paragraph (2.5) of this subsection
8 must specifically reference this paragraph; or

9 (3) operating a landscape waste composting facility on
10 a farm, if the facility meets all of the following
11 criteria:

12 (A) the composting facility is operated by the
13 farmer on property on which the composting material is
14 utilized, and the composting facility constitutes no
15 more than 2% of the property's total acreage, except
16 that the Board may allow a higher percentage for
17 individual sites where the owner or operator has
18 demonstrated to the Board that the site's soil
19 characteristics or crop needs require a higher rate;

20 (A-1) the composting facility accepts from other
21 agricultural operations for composting with landscape
22 waste no materials other than uncontaminated and
23 source-separated (i) crop residue and other
24 agricultural plant residue generated from the
25 production and harvesting of crops and other customary
26 farm practices, including, but not limited to, stalks,

1 leaves, seed pods, husks, bagasse, and roots and (ii)
2 plant-derived animal bedding, such as straw or
3 sawdust, that is free of manure and was not made from
4 painted or treated wood;

5 (A-2) any composting additives that the composting
6 facility accepts and uses at the facility are
7 necessary to provide proper conditions for composting
8 and do not exceed 10% of the total composting material
9 at the facility at any one time;

10 (B) the property on which the composting facility
11 is located, and any associated property on which the
12 compost is used, is principally and diligently devoted
13 to the production of agricultural crops and is not
14 owned, leased or otherwise controlled by any waste
15 hauler or generator of nonagricultural compost
16 materials, and the operator of the composting facility
17 is not an employee, partner, shareholder, or in any
18 way connected with or controlled by any such waste
19 hauler or generator;

20 (C) all compost generated by the composting
21 facility, except incidental sales of finished compost,
22 is applied at agronomic rates and used as mulch,
23 fertilizer or soil conditioner on land actually farmed
24 by the person operating the composting facility, and
25 the finished compost is not stored at the composting
26 site for a period longer than 18 months prior to its

1 application as mulch, fertilizer, or soil conditioner;

2 (D) the owner or operator, by January 1 of each
3 year, (i) registers the site with the Agency, (ii)
4 reports to the Agency on the volume of composting
5 material received and used at the site and the volume
6 of material comprising the incidental sale of finished
7 compost under this subsection (q), (iii) certifies to
8 the Agency that the site complies with the
9 requirements set forth in subparagraphs (A), (A-1),
10 (A-2), (B), and (C) of this paragraph (q) (3), and (iv)
11 certifies to the Agency that all composting material:

12 (I) was placed more than 200 feet from the
13 nearest potable water supply well;

14 (II) was placed outside the boundary of the
15 10-year floodplain or on a part of the site that is
16 floodproofed;

17 (III) was placed either (aa) at least 1/4 mile
18 from the nearest residence (other than a residence
19 located on the same property as the facility) and
20 there are not more than 10 occupied non-farm
21 residences within 1/2 mile of the boundaries of
22 the site on the date of application or (bb) a
23 lesser distance from the nearest residence (other
24 than a residence located on the same property as
25 the facility) provided that the municipality or
26 county in which the facility is located has by

1 ordinance approved a lesser distance than 1/4 mile
2 and there are not more than 10 occupied non-farm
3 residences within 1/2 mile of the boundaries of
4 the site on the date of application; and

5 (IV) was placed more than 5 feet above the
6 water table.

7 Any ordinance approving a residential setback of
8 less than 1/4 mile that is used to meet the
9 requirements of this subparagraph (D) must
10 specifically reference this subparagraph.

11 For the purposes of this subsection (q), "agronomic rates"
12 means the application of not more than 20 tons per acre per
13 year, except that the Board may allow a higher rate for
14 individual sites where the owner or operator has demonstrated
15 to the Board that the site's soil characteristics or crop
16 needs require a higher rate.

17 For the purposes of this subsection (q), "incidental sale
18 of finished compost" means the sale of finished compost that
19 meets general use compost standards and is no more than 20% or
20 300 cubic yards, whichever is less, of the total compost
21 created annually by a private landowner for the landowner's
22 own use.

23 (r) Cause or allow the storage or disposal of coal
24 combustion waste unless:

25 (1) such waste is stored or disposed of at a site or
26 facility for which a permit has been obtained or is not

1 otherwise required under subsection (d) of this Section;

2 or

3 (2) such waste is stored or disposed of as a part of
4 the design and reclamation of a site or facility which is
5 an abandoned mine site in accordance with the Abandoned
6 Mined Lands and Water Reclamation Act; or

7 (3) such waste is stored or disposed of at a site or
8 facility which is operating under NPDES and Subtitle D
9 permits issued by the Agency pursuant to regulations
10 adopted by the Board for mine-related water pollution and
11 permits issued pursuant to the federal Surface Mining
12 Control and Reclamation Act of 1977 (P.L. 95-87) or the
13 rules and regulations thereunder or any law or rule or
14 regulation adopted by the State of Illinois pursuant
15 thereto, and the owner or operator of the facility agrees
16 to accept the waste; and either:

17 (i) such waste is stored or disposed of in
18 accordance with requirements applicable to refuse
19 disposal under regulations adopted by the Board for
20 mine-related water pollution and pursuant to NPDES and
21 Subtitle D permits issued by the Agency under such
22 regulations; or

23 (ii) the owner or operator of the facility
24 demonstrates all of the following to the Agency, and
25 the facility is operated in accordance with the
26 demonstration as approved by the Agency: (1) the

1 disposal area will be covered in a manner that will
2 support continuous vegetation, (2) the facility will
3 be adequately protected from wind and water erosion,
4 (3) the pH will be maintained so as to prevent
5 excessive leaching of metal ions, and (4) adequate
6 containment or other measures will be provided to
7 protect surface water and groundwater from
8 contamination at levels prohibited by this Act, the
9 Illinois Groundwater Protection Act, or regulations
10 adopted pursuant thereto.

11 Notwithstanding any other provision of this Title, the
12 disposal of coal combustion waste pursuant to item (2) or (3)
13 of this subdivision (r) shall be exempt from the other
14 provisions of this Title V, and notwithstanding the provisions
15 of Title X of this Act, the Agency is authorized to grant
16 experimental permits which include provision for the disposal
17 of wastes from the combustion of coal and other materials
18 pursuant to items (2) and (3) of this subdivision (r).

19 (s) After April 1, 1989, offer for transportation,
20 transport, deliver, receive or accept special waste for which
21 a manifest is required, unless the manifest indicates that the
22 fee required under Section 22.8 of this Act has been paid.

23 (t) Cause or allow a lateral expansion of a municipal
24 solid waste landfill unit on or after October 9, 1993, without
25 a permit modification, granted by the Agency, that authorizes
26 the lateral expansion.

1 (u) Conduct any vegetable by-product treatment, storage,
2 disposal or transportation operation in violation of any
3 regulation, standards or permit requirements adopted by the
4 Board under this Act. However, no permit shall be required
5 under this Title V for the land application of vegetable
6 by-products conducted pursuant to Agency permit issued under
7 Title III of this Act to the generator of the vegetable
8 by-products. In addition, vegetable by-products may be
9 transported in this State without a special waste hauling
10 permit, and without the preparation and carrying of a
11 manifest.

12 (v) (Blank).

13 (w) Conduct any generation, transportation, or recycling
14 of construction or demolition debris, clean or general, or
15 uncontaminated soil generated during construction, remodeling,
16 repair, and demolition of utilities, structures, and roads
17 that is not commingled with any waste, without the maintenance
18 of documentation identifying the hauler, generator, place of
19 origin of the debris or soil, the weight or volume of the
20 debris or soil, and the location, owner, and operator of the
21 facility where the debris or soil was transferred, disposed,
22 recycled, or treated. This documentation must be maintained by
23 the generator, transporter, or recycler for 3 years. This
24 subsection (w) shall not apply to (1) a permitted pollution
25 control facility that transfers or accepts construction or
26 demolition debris, clean or general, or uncontaminated soil

1 for final disposal, recycling, or treatment, (2) a public
2 utility (as that term is defined in the Public Utilities Act)
3 or a municipal utility, (3) the Illinois Department of
4 Transportation, or (4) a municipality or a county highway
5 department, with the exception of any municipality or county
6 highway department located within a county having a population
7 of over 3,000,000 inhabitants or located in a county that is
8 contiguous to a county having a population of over 3,000,000
9 inhabitants; but it shall apply to an entity that contracts
10 with a public utility, a municipal utility, the Illinois
11 Department of Transportation, or a municipality or a county
12 highway department. The terms "generation" and "recycling", as
13 used in this subsection, do not apply to clean construction or
14 demolition debris when (i) used as fill material below grade
15 outside of a setback zone if covered by sufficient
16 uncontaminated soil to support vegetation within 30 days of
17 the completion of filling or if covered by a road or structure,
18 (ii) solely broken concrete without protruding metal bars is
19 used for erosion control, or (iii) milled asphalt or crushed
20 concrete is used as aggregate in construction of the shoulder
21 of a roadway. The terms "generation" and "recycling", as used
22 in this subsection, do not apply to uncontaminated soil that
23 is not commingled with any waste when (i) used as fill material
24 below grade or contoured to grade, or (ii) used at the site of
25 generation.

26 (x) Conduct any carbon sequestration operation:

1 (1) without a permit granted by the Agency in
2 accordance with Section 22.64 and any rules adopted under
3 that Section, or in violation of any condition imposed by
4 the permit, including periodic reports and full access to
5 adequate records and the inspection of facilities as may
6 be necessary to ensure compliance with this Act and any
7 rules or standards adopted under this Act;

8 (2) in violation of this Act or any rules or standards
9 adopted by the Board under this Act;

10 (3) in violation of any order adopted by the Board
11 under this Act;

12 (4) which sequesters carbon dioxide in, or where
13 carbon dioxide is injected into a well that passes
14 through, a sole-source aquifer designated by the United
15 States Environmental Protection Agency under the federal
16 Safe Drinking Water Act, including, but not limited to,
17 the Mahomet Aquifer;

18 (5) where the area of review is less than 6.2 miles in
19 any direction from the epicenter of any recorded
20 earthquake, natural or induced, with a magnitude of 3.0 or
21 greater;

22 (6) using an injection well that is or was classified
23 as a Class II well, as defined in 40 CFR Part 146; or

24 (7) in any pore space within an area of review
25 underlying any federal, State, or local protected areas,
26 including, but not limited to, areas designed as a:

- 1 (A) National Park;
2 (B) National Forest;
3 (C) National Grassland;
4 (D) National Wildlife Refuge;
5 (E) National Historic Site;
6 (F) U.S. Wilderness Area;
7 (G) U.S. Fish and Wildlife Service protected area;
8 (H) U.S. Army Corps of Engineers protected area;
9 (I) State Park;
10 (J) State Recreation Area;
11 (K) State Forest;
12 (L) State Historic Site;
13 (M) State Fish and Wildlife Area;
14 (N) State Nature Preserve;
15 (O) State Wildlife Management Area;
16 (P) State Memorial;
17 (Q) County Forest Preserve district;
18 (R) County park; or
19 (S) County, State, or private zoo.

20 (y) Inject any concentrated carbon dioxide fluid produced
21 by a carbon dioxide capture project into a Class II well for
22 purposes of enhanced oil or gas recovery, including, but not
23 limited to, the facilitation of enhanced oil or gas recovery
24 from another well.

25 (z) Sell or transport concentrated carbon dioxide fluid
26 produced by a carbon dioxide capture project for use in

1 enhanced oil or gas recovery.

2 (aa) Conduct any activity, including, but not limited to,
3 operating a Class II or any other injection well, performing
4 hydraulic fracturing, or engaging in conventional oil or gas
5 drilling or operations within or outside the area of review of
6 a sequestration facility, that may affect the pore-pressure of
7 a formation used for geological storage of carbon dioxide
8 without notifying the Agency and demonstrating to the
9 satisfaction of the Agency that the activity shall not expand
10 the area of review, compromise the integrity of well
11 penetrations and the confining zone within the area of review,
12 or induce seismicity within or outside the area of review to a
13 degree that could cause damage to well penetrations or
14 confining layers within the area of review.

15 (Source: P.A. 102-216, eff. 1-1-22; 102-310, eff. 8-6-21;
16 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 103-342, eff.
17 1-1-24.)

18 (415 ILCS 5/22.64 new)

19 Sec. 22.64. Carbon sequestration.

20 (a) The General Assembly finds that:

21 (1) The State has a long-standing policy to restore,
22 protect, and enhance the environment, including the purity
23 of the air, land, and waters, including groundwaters, of
24 this State.

25 (2) A clean environment is essential to the growth and

1 well-being of this State.

2 (3) The sequestration of carbon in underground
3 formations poses a significant and long-term risk to the
4 air, land, and waters, including groundwater, of the State
5 unless the State adopts clear standards to ensure that no
6 sequestered carbon escapes the underground formation into
7 which it is injected.

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

17 (a-5) The purpose of this Section is to promote a
18 healthful environment, including clean water, air, and land,
19 meaningful public involvement, and to ensure only responsible
20 sequestration of carbon dioxide occurs in the State so as to
21 protect public health and to prevent pollution of the
22 environment.

23 (a-10) The provisions of this Section shall be liberally
24 construed to carry out the purposes of this Section.

25 (b) Any person seeking to sequester carbon dioxide in this
26 State must first obtain a carbon sequestration permit from the

1 Agency in accordance with the rules developed under subsection
2 (g).

3 (c) Except for persons who seek to sequester carbon
4 dioxide captured only from capture projects located in the
5 State, any person seeking to sequester carbon dioxide in this
6 State must, before seeking a carbon sequestration permit in
7 accordance with the rules developed under subsection (g),
8 first conduct an environmental impact analysis. The
9 environmental impact analysis must:

10 (1) include a statement of purpose and need for the
11 proposed carbon sequestration project;

12 (2) include a GHG inventory analysis, including, but
13 not limited to, Scope 1, 2, and 3 emissions set forth in
14 guidance published by the United States Environmental
15 Protection Agency, of the total GHG emissions associated
16 with the capture, transportation, and sequestration of the
17 carbon dioxide proposed to be sequestered, which emissions
18 shall be expressed as carbon dioxide equivalent,
19 consistent with United States Environmental Protection
20 Agency rules and guidance;

21 (3) demonstrate that the total Scope 1, 2, and 3 GHG
22 emissions associated with the capture, transport, and
23 sequestration of the carbon dioxide proposed to be
24 sequestered, converted into carbon dioxide equivalent
25 consistent with United States Environmental Protection
26 Agency rules and guidance, will not exceed the total

1 amount of carbon dioxide that is sequestered over the life
2 of the sequestration project;

3 (4) include an alternatives analysis that evaluates
4 other reasonable alternatives for achieving the same
5 volume of carbon dioxide emissions reductions as are
6 proposed to be achieved through carbon sequestration,
7 including, but not limited to:

8 (A) if the carbon dioxide was captured at a
9 facility that generates electricity, energy-generation
10 alternatives such as renewable energy, energy storage,
11 or energy efficiency;

12 (B) if the carbon dioxide was captured at a
13 facility that produces fuel for motor vehicles,
14 aircraft, or equipment, alternatives such as the use
15 of electric vehicles, electric aircraft, or
16 alternative fuels; and

17 (C) if the carbon dioxide was captured at an
18 industrial facility, alternative processes that could
19 reduce the amount of carbon dioxide generated.

20 For each alternative identified under this paragraph,
21 the person seeking to sequester carbon dioxide shall
22 complete a GHG inventory analysis of the alternative
23 consistent with paragraph (2); and

24 (5) be developed with public input, including by
25 making a draft version of the analysis available on a
26 public website for not less than 60 days and accepting

1 comments on the proposed analysis for the entirety of that
2 60-day period, together with a public meeting at least 14
3 days after the posting of the draft on the public website
4 that provides a meaningful opportunity for the public to
5 ask questions, have those questions answered, and provide
6 comment on the draft; the final environmental analysis
7 must include responses to public comments, identify all
8 changes to the analysis made in response to those
9 comments, and be made available to the public on a public
10 website.

11 (d) Any person seeking to sequester carbon dioxide in this
12 State must, before seeking a carbon sequestration permit in
13 accordance with the rules developed under subsection (g),
14 first:

15 (1) conduct an area of review analysis that identifies
16 any faults, fractures, cracks, abandoned or operating
17 wells, seismic activity, or other features of the area of
18 review that could interfere with containment of carbon
19 dioxide and, if any such feature is present, demonstrates
20 that the feature will not interfere with carbon dioxide
21 containment; and

22 (2) at least 30 days before filing the application for
23 a carbon sequestration permit in accordance with this
24 Section, send by certified U.S. Mail a notice to all
25 owners of real property overlying the Area of Review of
26 the person or entity's intent to file an application for a

1 carbon sequestration permit; the notice shall include a
2 map of the Area of Review identifying the intended
3 location of the carbon dioxide injection well and
4 confining zone, together with the link to the public
5 website at which the permit application will be posted.

6 (e) Any person who applies for or is granted a permit for
7 carbon sequestration under this Section shall post with the
8 Agency a performance bond or other security in accordance with
9 this Act and the rules developed under subsection (g). The
10 only acceptable forms of financial assurance are a trust fund,
11 a surety bond guaranteeing payment, a surety bond guaranteeing
12 performance, or an irrevocable letter of credit. Financial
13 assurance must be sufficient to cover the cost of actions set
14 out in 40 CFR 146.85(a)(2)-(3) and must be maintained by the
15 permittee until the end of the post-injection site care
16 period.

17 The Agency may enter into contracts and agreements it
18 deems necessary to carry out the purposes of this Section,
19 including, but not limited to, interagency agreements with the
20 Illinois State Geological Society, Illinois Department of
21 Natural Resources, or other agencies of the State. Neither the
22 State nor any State employee shall be liable for any damages or
23 injuries arising out of or resulting from any action taken
24 under this Section.

25 The Agency may approve or disapprove any performance bond
26 or other security posted under this subsection. Any person

1 whose performance bond or other security is disapproved by the
2 Agency may contest the disapproval as a permit denial appeal
3 under Section 40.

4 (f) Every applicant for a permit for carbon sequestration
5 under this Section shall first register with the Agency at
6 least 60 days before applying for a permit. The Agency shall
7 make available a registration form within 90 days after the
8 effective date of this Act. The registration form shall
9 require the following information:

10 (1) the name and address of the registrant and any
11 parent, subsidiary, or affiliate thereof;

12 (2) disclosure of all findings of a serious violation
13 or an equivalent violation under federal or State laws,
14 rules, or regulations concerning the development or
15 operation of a carbon dioxide injection well, a carbon
16 dioxide pipeline, or an oil or gas exploration or
17 production site, by the applicant or any parent,
18 subsidiary, or affiliate thereof within the previous 5
19 years; and

20 (3) proof of insurance to cover injuries, damages, or
21 losses related to a release of carbon dioxide from the
22 confining zone in the amount of at least \$250,000,000,
23 from an insurance carrier authorized, licensed, or
24 permitted to do business in this State and that holds at
25 least an A- rating by an American credit rating agency
26 that focuses on the insurance industry.

1 A registrant must notify the Department of any change in
2 the information identified in paragraph (1), (2), or (3) no
3 later than one month after the change, or sooner upon request
4 of the Agency.

5 If granted a carbon sequestration permit under this
6 Section, the permittee must maintain insurance in accordance
7 with paragraph (3) throughout the period during which carbon
8 dioxide is injected into the sequestration site and at least
9 100 years thereafter.

10 (g) The Board shall adopt rules establishing permit
11 requirements and other standards for carbon sequestration. The
12 Board's rules shall address, but are not limited to, the
13 following issues: applicability; required permit information;
14 minimum criteria for siting; corrective action; financial
15 responsibility; testing and monitoring requirements; reporting
16 requirements; post-injection site care and site closure;
17 emergency and remedial response; and security protections for
18 injection wells, monitors, and other associated infrastructure
19 to prevent tampering with sequestration-related equipment.

20 Not later than one year after the effective date of this
21 Act the Agency shall propose, and not later than 2 years after
22 receipt of the Agency's proposal the Board shall adopt, the
23 rules required under this Section. The rules must, at a
24 minimum:

25 (1) be at least as protective as federal rules and
26 regulations governing Class VI injection wells, that were

1 published in the Federal Register on December 10, 2010, by
2 the Administrator of the United States Environmental
3 Protection Agency and codified at 40 CFR 146;

4 (2) specify the minimum contents of carbon
5 sequestration permit applications, which shall include:

6 (A) where applicable, the environmental impact
7 analyses required under subsection (c) and the area of
8 review analysis required under subsection (d);

9 (B) the Class VI permit, issued by the United
10 States Environmental Protection Agency or a State
11 agency authorized to issue Class VI permits for carbon
12 dioxide sequestration, for the sequestration facility
13 seeking a carbon sequestration permit;

14 (C) a proposed seismic monitoring plan in
15 accordance with the rules developed under subsection
16 (k) and a probabilistic seismic hazard analysis,
17 including, but not limited to, a review of prior
18 induced seismicity in the area of review associated
19 with injection of fluids or gasses within or outside
20 the area of review, together with predictions,
21 produced by computer modeling, of the induced
22 seismicity likely to result from the proposed
23 sequestration project in addition to seismicity
24 already occurring or likely to occur at the site due to
25 other activities or natural forces within or outside
26 the area of review;

1 (D) computer simulation data and report
2 demonstrating that the sequestration project will
3 satisfy the permanence standard required by this
4 Section; and

5 (E) documentation and analyses sufficient to
6 demonstrate compliance with all applicable rules for
7 carbon sequestration adopted under this Section.

8 (3) specify the frequency at which carbon
9 sequestration permits expire and must be renewed, the
10 circumstances under which a permittee must seek a permit
11 modification, and the circumstances under which the Agency
12 may temporarily or permanently revoke a carbon
13 sequestration permit;

14 (4) specify the circumstances under which a carbon
15 sequestration permit may be transferred, including, but
16 not limited to: (A) prohibiting the transfer of a carbon
17 sequestration permit unless (i) the transferee has
18 demonstrated, to the satisfaction of the Agency, that it
19 has met the financial assurance and insurance requirements
20 set out in this Section and that it has the capacity to
21 carry out the requirements of the permit; and (B)
22 requiring the transferee to provide notice by direct mail
23 to all surface owners above the area of review for a
24 sequestration facility of any transfers of the carbon
25 sequestration permit for that facility;

26 (5) specify standards for review, approval, and denial

1 by the Agency of carbon sequestration permit applications;

2 (6) specify meaningful public participation procedures
3 for the issuance of carbon sequestration permits,
4 including, but not limited to:

5 (A) public notice of the submission of permit
6 applications;

7 (B) posting of the full permit application, all
8 documentation and analyses the applicant relied on to
9 come to any calculations or judgments asserted or
10 implied in the permit application, the draft and final
11 permitting actions by the Agency, and the Agency's
12 response to comments on a public website that must be
13 available to the public without a password, sign-in,
14 or other registration;

15 (C) an opportunity for the submission of public
16 comments;

17 (D) an opportunity for a public hearing prior to
18 permit issuance; and

19 (E) a summary and response of the comments
20 prepared by the Agency; when the sequestration is
21 proposed to take place in an area with a significant
22 proportion of residents with limited English
23 proficiency, or otherwise of environmental justice
24 concern, the rules shall specify further opportunities
25 for public participation, including, but not limited
26 to, public meetings, translations of relevant

1 documents into other languages, and interpretation
2 services at public meetings and hearings;

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

8 (8) specify a procedure to identify areas with a
9 significant proportion of residents with limited English
10 proficiency proximate to sequestration facilities;

11 (9) prohibit carbon dioxide sequestration unless the
12 permit applicant demonstrates that:

13 (A) the area of review in which the applicant
14 proposes to sequester carbon dioxide is not in a
15 location in which carbon sequestration could pose an
16 undue risk of harm to human health or the environment,
17 taking into account the cumulative risks posed by the
18 proposed sequestration project in conjunction with
19 other existing or proposed sequestration projects,
20 injection wells, oil or gas extraction wells,
21 underground natural gas storage projects, or other
22 activities affecting subsurface pressure;

23 (B) the area of review in which the applicant
24 proposes to sequester carbon dioxide does not
25 intersect with an aquifer containing groundwater
26 classified as Class 1, Class 2, or Class 3 under 35

1 Ill. Adm. Code Part 620, Subpart B;

2 (C) the area of review in which the applicant
3 proposes to sequester carbon dioxide does not
4 intersect with any aquifer that is hydraulically
5 connected to aquifers containing groundwater
6 classified as Class I, II, III under 35 Ill. Adm. Code
7 Part 620, Subpart B;

8 (D) the area of review in which the applicant
9 proposes to sequester carbon dioxide does not contain
10 any faults, fractures, well penetrations, mine shafts,
11 quarries, or other features that could interfere with
12 containment of carbon dioxide; and

13 (E) the sequestration project, in combination with
14 any natural seismicity and other activities that
15 create induced seismicity, will not create a level of
16 seismic activity that poses a risk of harm to public
17 health and safety, either directly or indirectly via
18 damage to well penetrations, equipment, confining
19 layers, or other infrastructure or geology that plays
20 a role in keeping carbon dioxide within the area of
21 review;

22 (F) submits all documentation and analyses the
23 applicant relies on in making the demonstrations
24 required by this paragraph (9);

25 (10) require that monitoring of carbon sequestration
26 facilities be conducted by a third-party contractor;

1 (11) establish minimum qualifications for third-party
2 contractors to conduct monitoring;

3 (12) specify the types of monitors and frequency of
4 monitoring to be performed at carbon sequestration
5 facilities, which, in addition to monitoring required
6 under 40 CFR 146, shall include: (i) surface air
7 monitoring, soil gas monitoring, seismicity monitoring,
8 and any other types of monitoring the Board determines are
9 appropriate to protect health and the environment and (ii)
10 after a sequestration facility receives authorization for
11 site closure from the Administrator of the United States
12 Environmental Protection Agency or a State agency
13 authorized to issue Class VI permits under the federal
14 Safe Drinking Water Act, annual imaging of the carbon
15 dioxide plume to determine the location of the injected
16 carbon dioxide;

17 (13) setting out requirements to ensure that carbon
18 dioxide injection wells are located far enough away from
19 residences, schools, daycare facilities, hospitals or
20 other healthcare facilities, places of worship,
21 businesses, or other facilities where many people
22 congregate, to minimize damage and ensure that persons in
23 those locations have adequate time to evacuate or be
24 rescued in the event of an injection well blowout or leak;
25 the requirements shall include, but are not limited to, a
26 requirement that sequestration permit applicants use

1 computerized fluid dynamic modeling or more accurate
2 modeling to predict the impacts of a well blowout or leak;

3 (14) establish a permanence standard of no more than
4 1% of carbon dioxide leakage from the confining zone over
5 a thousand-year period, together with mandates for
6 corrective measures, including, but not limited to,
7 cessation of injection, when monitoring or modeling
8 indicate exceedance of the permanence standard is likely
9 or has already occurred;

10 (15) set out requirements for computer simulations, to
11 be completed every time the area of review is reevaluated
12 or every 5 years, whichever is more frequent, to project
13 whether the sequestration project will meet the permanence
14 standard;

15 (16) set the minimum duration of the post-injection
16 site care period at no fewer than 100 years; and

17 (17) establish reporting requirements for carbon
18 sequestration permittees, which shall include, but are not
19 limited to, the mass of carbon dioxide transported to the
20 sequestration facility; the facilities from which that
21 carbon dioxide was captured; seismic events of 1.0 or
22 greater on the Richter scale; and malfunctions or downtime
23 of any monitors.

24 (h) If the United States Environmental Protection Agency
25 revises 40 CFR 146 to be less protective than the rules
26 published in the Federal Register on December 10, 2010, the

1 Agency must (i) immediately halt the issuance of carbon
2 sequestration permits and (ii) within 3 months of the
3 effective date of such revision, notify the Board of that
4 revision and propose rules requiring compliance with the
5 December 10, 2010 version of any amended provision. Within 18
6 months of the Agency's proposal, the Board shall amend the
7 rules issued under subsection (g) to incorporate the Agency's
8 proposal or an equally protective provision. The Agency may
9 reinitiate issuance of carbon sequestration permits after the
10 effective date of the amended rules required by this
11 subsection.

12 (i) Within 60 days after a sequestration operator has
13 obtained a carbon sequestration permit under this Section and
14 begun injecting carbon dioxide into the sequestration
15 facility, the sequestration operator shall record, with the
16 Recorder of Deeds in the county in which the property is
17 located, documents stating that (i) the pore space within the
18 sequestration facility will be used to sequester carbon
19 dioxide, and (ii) the pore space within the area of review may
20 be used to sequester carbon dioxide.

21 (j) If monitoring reveals that the carbon dioxide plume
22 has migrated outside of the confining zone, the sequestration
23 operator shall:

24 (A) immediately halt injection of carbon dioxide and
25 assess measures to restore the carbon dioxide to the
26 confining zone;

1 (B) promptly notify the owners of the surface estate
2 overlying the pore space into which the carbon dioxide has
3 migrated of that migration;

4 (C) promptly determine whether the movement of the
5 carbon dioxide plume may cause an endangerment to an
6 aquifer defined by the United States Environmental
7 Protection Agency as an Underground Source of Drinking
8 Water, and if so:

9 (i) immediately commence emergency response
10 measures required under federal Class VI regulations;
11 and

12 (ii) promptly assess whether any sources of
13 drinking water have been contaminated as a result of
14 the movement of carbon dioxide and, if so, provide an
15 immediate replacement source of drinking water to
16 affected residents that satisfies all drinking water
17 standards set by the United States Environmental
18 Protection Agency under the federal Safe Drinking
19 Water Act; all assessments required by this subsection
20 shall be made available to potentially affected
21 residents upon completion, without delay; and

22 (D) if the migration is lateral, record with the
23 Recorder of Deeds of the county in which the property is
24 located documents stating that that the pore space
25 underlying the surface estate has been used to sequester
26 carbon dioxide.

1 (k) Once the rules required by subsection (g) have been
2 adopted, the Agency shall calculate the cost it will bear to
3 implement the carbon dioxide sequestration permit program and
4 shall establish a permit fee sufficient to cover those costs,
5 which it may update periodically as the costs of program
6 implementation change.

7 (l) Seismicity requirements for sequestration facilities.

8 (A) For purposes of this Section, "induced seismicity"
9 means seismicity above background that is recorded by a
10 seismic monitoring network and is attributable to the
11 injection or sequestration of carbon dioxide in the
12 subsurface.

13 (B) Within 2 years of the effective date of this
14 Section, the Agency shall, in consultation with the
15 Illinois State Geological Survey, propose, and the Board
16 shall adopt, rules establishing a protocol for monitoring
17 seismic activity and controlling operational activity of
18 sequestration facilities in an instance of induced
19 seismicity or seismic activity within the area of review
20 that measures at least 1.0 in magnitude.

21 (C) The rules adopted by the Board under this
22 subsection shall: (i) set out seismicity monitoring
23 requirements extending throughout the area of review of
24 carbon dioxide sequestration projects, which shall be
25 capable of detecting seismic activity of a magnitude of
26 0.7 or greater, and shall be calibrated with check-shots,

1 sonic logs, or other local velocity information; and (ii)
2 employ a "traffic light" control system allowing for low
3 levels of seismicity while including additional monitoring
4 and mitigation requirements when events of induced
5 seismicity or seismicity, measuring 1.5 or greater in
6 magnitude, occur within the area of review. Those
7 additional mitigation requirements shall include, but are
8 not limited to, (i) immediate cessation of injection
9 operations and inspection and evaluation of any and all
10 damage to all injection wells, monitoring wells, or other
11 plugged or unplugged well penetrations or equipment
12 associated with the sequestration facility, with injection
13 reinitiated only if the Agency deems that injection will
14 not pose an undue risk to health or the environment; and
15 (ii) when induced seismicity appears to be the cause of
16 the seismic event, mandates to scale back carbon dioxide
17 injection operations with monitoring for establishment of
18 a potentially safe operation level.

19 (m) No adjusted standard, variance, or other regulatory
20 relief otherwise available under this Act may be granted from
21 the requirements of this Section.

22 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

23 Sec. 39. Issuance of permits; procedures.

24 (a) When the Board has by regulation required a permit for
25 the construction, installation, or operation of any type of

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

26 (i) the Sections of this Act which may be violated if

1 the permit were granted;

2 (ii) the provision of the regulations, promulgated
3 under this Act, which may be violated if the permit were
4 granted;

5 (iii) the specific type of information, if any, which
6 the Agency deems the applicant did not provide the Agency;
7 and

8 (iv) a statement of specific reasons why the Act and
9 the regulations might not be met if the permit were
10 granted.

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

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

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

18 After June 30, 1998, operating permits issued under this
19 Section by the Agency for sources of air pollution that are not
20 subject to Section 39.5 of this Act and are not required to
21 have a federally enforceable State operating permit shall be
22 required to be renewed only upon written request by the Agency
23 consistent with applicable provisions of this Act and its
24 rules. Such operating permits shall expire 180 days after the
25 date of such a request. Before July 1, 1998, the Board shall
26 revise its rules for the existing State air pollution

1 operating permit program consistent with this paragraph and
2 shall adopt rules that require a source to demonstrate that it
3 qualifies for a permit under this paragraph.

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

9 All NPDES permits shall contain those terms and
10 conditions, including, but not limited to, schedules of
11 compliance, which may be required to accomplish the purposes
12 and provisions of this Act.

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

19 The Agency may include, among such conditions, effluent
20 limitations and other requirements established under this Act,
21 Board regulations, the Federal Water Pollution Control Act, as
22 now or hereafter amended, and regulations pursuant thereto,
23 and schedules for achieving compliance therewith at the
24 earliest reasonable date.

25 The Agency shall adopt filing requirements and procedures
26 which are necessary and appropriate for the issuance of NPDES

1 permits, and which are consistent with the Act or regulations
2 adopted by the Board, and with the Federal Water Pollution
3 Control Act, as now or hereafter amended, and regulations
4 pursuant thereto.

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

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

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

17 Beginning August 20, 1993, if the pollution control
18 facility consists of a hazardous or solid waste disposal
19 facility for which the proposed site is located in an
20 unincorporated area of a county with a population of less than
21 100,000 and includes all or a portion of a parcel of land that
22 was, on April 1, 1993, adjacent to a municipality having a
23 population of less than 5,000, then the local siting review
24 required under this subsection (c) in conjunction with any
25 permit applied for after that date shall be performed by the
26 governing body of that adjacent municipality rather than the

1 county board of the county in which the proposed site is
2 located; and for the purposes of that local siting review, any
3 references in this Act to the county board shall be deemed to
4 mean the governing body of that adjacent municipality;
5 provided, however, that the provisions of this paragraph shall
6 not apply to any proposed site which was, on April 1, 1993,
7 owned in whole or in part by another municipality.

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

18 After January 1, 1994, if a solid waste disposal facility,
19 any portion for which an operating permit has been issued by
20 the Agency, has not accepted waste disposal for 5 or more
21 consecutive calendar years, before that facility may accept
22 any new or additional waste for disposal, the owner and
23 operator must obtain a new operating permit under this Act for
24 that facility unless the owner and operator have applied to
25 the Agency for a permit authorizing the temporary suspension
26 of waste acceptance. The Agency may not issue a new operation

1 permit under this Act for the facility unless the applicant
2 has submitted proof to the Agency that the location of the
3 facility has been approved or re-approved by the appropriate
4 county board or municipal governing body under Section 39.2 of
5 this Act after the facility ceased accepting waste.

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

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

1 The Agency may issue a permit for a municipal waste
2 transfer station without requiring approval pursuant to
3 Section 39.2 provided that the following demonstration is
4 made:

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

9 (2) the operator submitted a permit application to the
10 Agency to develop and operate the municipal waste transfer
11 station during April of 1994;

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

18 (4) the site has local zoning approval.

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

25 All RCRA permits shall contain those terms and conditions,
26 including, but not limited to, schedules of compliance, which

1 may be required to accomplish the purposes and provisions of
2 this Act. The Agency may include among such conditions
3 standards and other requirements established under this Act,
4 Board regulations, the Resource Conservation and Recovery Act
5 of 1976 (P.L. 94-580), as amended, and regulations pursuant
6 thereto, and may include schedules for achieving compliance
7 therewith as soon as possible. The Agency shall require that a
8 performance bond or other security be provided as a condition
9 for the issuance of a RCRA permit.

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

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

22 The applicant shall make available to the public for
23 inspection all documents submitted by the applicant to the
24 Agency in furtherance of an application, with the exception of
25 trade secrets, at the office of the county board or governing
26 body of the municipality. Such documents may be copied upon

1 payment of the actual cost of reproduction during regular
2 business hours of the local office. The Agency shall issue a
3 written statement concurrent with its grant or denial of the
4 permit explaining the basis for its decision.

5 (e) The Agency may issue UIC permits exclusively under
6 this subsection to persons owning or operating a facility for
7 the underground injection of contaminants as defined under
8 this Act, except that the Agency shall issue any permits for
9 underground injection wells for the sequestration of carbon
10 dioxide under Section 22.64.

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

21 The Agency shall adopt filing requirements and procedures
22 which are necessary and appropriate for the issuance of UIC
23 permits, and which are consistent with the Act or regulations
24 adopted by the Board, and with the Safe Drinking Water Act
25 (P.L. 93-523), as amended, and regulations pursuant thereto.

26 The applicant shall make available to the public for

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

9 (f) In making any determination pursuant to Section 9.1 of
10 this Act:

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

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

1 related comments together and provide one unified response
2 for each issue raised.

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

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

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

24 (h) A hazardous waste stream may not be deposited in a
25 permitted hazardous waste site unless specific authorization
26 is obtained from the Agency by the generator and disposal site

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

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

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

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

1 condition; or

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

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

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

1 location, or operation of surface mining facilities.

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

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

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

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

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

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

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

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

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

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

1 (1) the facility includes a setback of at least 200
2 feet from the nearest potable water supply well;

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

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

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

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

1 (6) the operation will be conducted in accordance with
2 any applicable rules adopted by the Board.

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

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

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

16 (o) (Blank).

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

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

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

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

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

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

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

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

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

26 (3) within ~~Within~~ 2 years after July 12, 2011 (the

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

17 (A) the number of applications received for each
18 type of permit, the number of applications on which
19 the Agency has taken action, and the number of
20 applications still pending; and

21 (B) for those applications where the Agency has
22 not taken action in accordance with the timeframes set
23 forth in this Act, the date the application was
24 received and the reasons for any delays, which may
25 include, but shall not be limited to, (i) the
26 application being inadequate or incomplete, (ii)

1 scientific or technical disagreements with the
2 applicant, USEPA, or other local, state, or federal
3 agencies involved in the permitting approval process,
4 (iii) public opposition to the permit, or (iv) Agency
5 staffing shortages ; to ~~to~~ the extent practicable,
6 the tracking report shall provide approximate dates
7 when cause for delay was identified by the Agency,
8 when the Agency informed the applicant of the problem
9 leading to the delay, and when the applicant remedied
10 the reason for the delay.

11 (r) Upon the request of the applicant, the Agency shall
12 notify the applicant of the permit analyst assigned to the
13 application upon its receipt.

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

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

1 shall meet with the applicant to discuss the suggested
2 language.

3 (u) If requested by the permit applicant, the Agency shall
4 provide the permit applicant with a copy of the draft permit
5 prior to any public review period.

6 (v) If requested by the permit applicant, the Agency shall
7 provide the permit applicant with a copy of the final permit
8 prior to its issuance.

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

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

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

25 (z) If a mass animal mortality event is declared by the
26 Department of Agriculture in accordance with the Animal

1 Mortality Act:

2 (1) the owner or operator responsible for the disposal
3 of dead animals is exempted from the following:

4 (i) obtaining a permit for the construction,
5 installation, or operation of any type of facility or
6 equipment issued in accordance with subsection (a) of
7 this Section;

8 (ii) obtaining a permit for open burning in
9 accordance with the rules adopted by the Board; and

10 (iii) registering the disposal of dead animals as
11 an eligible small source with the Agency in accordance
12 with Section 9.14 of this Act;

13 (2) as applicable, the owner or operator responsible
14 for the disposal of dead animals is required to obtain the
15 following permits:

16 (i) an NPDES permit in accordance with subsection
17 (b) of this Section;

18 (ii) a PSD permit or an NA NSR permit in accordance
19 with Section 9.1 of this Act;

20 (iii) a lifetime State operating permit or a
21 federally enforceable State operating permit, in
22 accordance with subsection (a) of this Section; or

23 (iv) a CAAPP permit, in accordance with Section
24 39.5 of this Act.

25 All CCR surface impoundment permits shall contain those
26 terms and conditions, including, but not limited to, schedules

1 of compliance, which may be required to accomplish the
2 purposes and provisions of this Act, Board regulations, the
3 Illinois Groundwater Protection Act and regulations pursuant
4 thereto, and the Resource Conservation and Recovery Act and
5 regulations pursuant thereto, and may include schedules for
6 achieving compliance therewith as soon as possible.

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

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

21 The Agency shall issue a written statement concurrent with
22 its grant or denial of the permit explaining the basis for its
23 decision.

24 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
25 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

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

2 Sec. 40. Appeal of permit denial.

3 (a)(1) If the Agency refuses to grant or grants with
4 conditions a permit under Section 39 of this Act, the
5 applicant may, within 35 days after the date on which the
6 Agency served its decision on the applicant, petition for a
7 hearing before the Board to contest the decision of the
8 Agency. However, the 35-day period for petitioning for a
9 hearing may be extended for an additional period of time not to
10 exceed 90 days by written notice provided to the Board from the
11 applicant and the Agency within the initial appeal period. The
12 Board shall give 21 days' notice to any person in the county
13 where is located the facility in issue who has requested
14 notice of enforcement proceedings and to each member of the
15 General Assembly in whose legislative district that
16 installation or property is located; and shall publish that
17 21-day notice in a newspaper of general circulation in that
18 county. The Agency shall appear as respondent in such hearing.
19 At such hearing the rules prescribed in Section 32 and
20 subsection (a) of Section 33 of this Act shall apply, and the
21 burden of proof shall be on the petitioner. If, however, the
22 Agency issues an NPDES permit that imposes limits which are
23 based upon a criterion or denies a permit based upon
24 application of a criterion, then the Agency shall have the
25 burden of going forward with the basis for the derivation of
26 those limits or criterion which were derived under the Board's

1 rules.

2 (2) Except as provided in paragraph (a) (3), if there is no
3 final action by the Board within 120 days after the date on
4 which it received the petition, the petitioner may deem the
5 permit issued under this Act, provided, however, that that
6 period of 120 days shall not run for any period of time, not to
7 exceed 30 days, during which the Board is without sufficient
8 membership to constitute the quorum required by subsection (a)
9 of Section 5 of this Act, and provided further that such 120
10 day period shall not be stayed for lack of quorum beyond 30
11 days regardless of whether the lack of quorum exists at the
12 beginning of such 120-day period or occurs during the running
13 of such 120-day period.

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

20 (b) If the Agency grants a RCRA permit for a hazardous
21 waste disposal site, a third party, other than the permit
22 applicant or Agency, may, within 35 days after the date on
23 which the Agency issued its decision, petition the Board for a
24 hearing to contest the issuance of the permit. Unless the
25 Board determines that such petition is duplicative or
26 frivolous, or that the petitioner is so located as to not be

1 affected by the permitted facility, the Board shall hear the
2 petition in accordance with the terms of subsection (a) of
3 this Section and its procedural rules governing denial
4 appeals, such hearing to be based exclusively on the record
5 before the Agency. The burden of proof shall be on the
6 petitioner. The Agency and the permit applicant shall be named
7 co-respondents.

8 The provisions of this subsection do not apply to the
9 granting of permits issued for the disposal or utilization of
10 sludge from publicly owned sewage works.

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

1 rules governing permit denial appeals.

2 (d) In reviewing the denial or any condition of a NA NSR
3 permit issued by the Agency pursuant to rules and regulations
4 adopted under subsection (c) of Section 9.1 of this Act, the
5 decision of the Board shall be based exclusively on the record
6 before the Agency including the record of the hearing, if any,
7 unless the parties agree to supplement the record. The Board
8 shall, if it finds the Agency is in error, make a final
9 determination as to the substantive limitations of the permit
10 including a final determination of Lowest Achievable Emission
11 Rate.

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

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

19 (A) a demonstration that the petitioner raised the
20 issues contained within the petition during the public
21 notice period or during the public hearing on the NPDES
22 permit application, if a public hearing was held; and

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

25 (3) If the Board determines that the petition is not
26 duplicative or frivolous and contains a satisfactory

1 demonstration under subdivision (2) of this subsection, the
2 Board shall hear the petition (i) in accordance with the terms
3 of subsection (a) of this Section and its procedural rules
4 governing permit denial appeals and (ii) exclusively on the
5 basis of the record before the Agency. The burden of proof
6 shall be on the petitioner. The Agency and permit applicant
7 shall be named co-respondents.

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

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

15 (h) If the Agency grants or denies a permit for the capture
16 of carbon dioxide under Section 9.21 or a permit for
17 sequestration of carbon dioxide under Section 22.64,
18 including, but not limited to, the disapproval of financial
19 assurance under subsection (e) of Section 22.64, any person
20 may petition the Board, within 35 days after the date of
21 issuance of the Agency's decision, for a hearing to contest
22 the grant or denial.

23 (Source: P.A. 101-171, eff. 7-30-19; 102-558, eff. 8-20-21.)

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

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

1 INDEX
2 Statutes amended in order of appearance

3 New Act

4 30 ILCS 105/5.1015 new

5 20 ILCS 3855/1-10

6 20 ILCS 3855/1-80

7 220 ILCS 75/10

8 220 ILCS 75/15

9 220 ILCS 75/20

10 220 ILCS 75/5 rep.

11 415 ILCS 5/3.121 new

12 415 ILCS 5/3.132 new

13 415 ILCS 5/3.133 new

14 415 ILCS 5/3.134 new

15 415 ILCS 5/3.136 new

16 415 ILCS 5/3.281 new

17 415 ILCS 5/3.446 new

18 415 ILCS 5/3.447 new

19 415 ILCS 5/9.20 new

20 415 ILCS 5/9.21 new

21 415 ILCS 5/21 from Ch. 111 1/2, par. 1021

22 415 ILCS 5/22.64 new

23 415 ILCS 5/39 from Ch. 111 1/2, par. 1039

24 415 ILCS 5/40 from Ch. 111 1/2, par. 1040