



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1608

Introduced 1/28/2025, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.178 new
415 ILCS 5/3.186 new
415 ILCS 5/3.187 new
415 ILCS 5/3.188 new
415 ILCS 5/3.189 new
415 ILCS 5/3.281 new
415 ILCS 5/34.5 new
415 ILCS 5/39 from Ch. 111 1/2, par. 1039
415 ILCS 5/39.15 new
415 ILCS 5/40 from Ch. 111 1/2, par. 1040
415 ILCS 5/40.4 new

Amends the Environmental Protection Act. Requires the Environmental Protection Agency to annually review and update the underlying data for, and use of, indicators used to determine whether a community is designated as an environmental justice community and to establish a process by which communities not designated as environmental justice communities may petition for such a designation. Provides that an applicant for a permit for the construction of a new source that will become a major source subject to the Clean Air Act Permit Program to be located in an environmental justice community or a new source that has or will require a federally enforceable State operating permit and that will be located in an environmental justice community must conduct a public meeting prior to submission of the permit application and must submit with the permit application an environmental justice assessment identifying the potential environmental and health impacts to the area associated with the proposed project. Provides requirements for the environmental justice assessment. Contains provisions regarding public participation requirements for permitting transactions in an environmental justice community. Provides that, if the Agency grants a permit to construct, modify, or operate a facility that emits air pollutants and is classified as a minor source, a third party may petition the Pollution Control Board for a hearing to contest the issuance of the permit. Contains provisions regarding environmental justice grievances. Defines terms. Contains other provisions.

LRB104 08109 BDA 18155 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 39 and 40 and by adding Sections 3.178,
6 3.186, 3.187, 3.188, 3.189, 3.281, 34.5, 39.15, and 40.4 as
7 follows:

8 (415 ILCS 5/3.178 new)

9 Sec. 3.178. Cumulative impact. "Cumulative impact" means
10 the total burden from chemical and nonchemical stressors and
11 their interactions that affect the health, well-being, and
12 quality of life of an individual, community, or population at
13 a given point of time or over a period of time.

14 (415 ILCS 5/3.186 new)

15 Sec. 3.186. Disproportionate harm. "Disproportionate harm"
16 means the combination of cumulative impacts, including, but
17 not limited to, disproportionately high and adverse human
18 health impacts and disproportionately high and adverse
19 environmental impacts.

20 (415 ILCS 5/3.187 new)

21 Sec. 3.187. Disproportionately high and adverse

1 environmental impact. "Disproportionately high and adverse
2 environmental impact" means an environmental impact that is
3 disproportionately high and adverse based on the following
4 factors:

5 (1) Whether there is or will be an impact on the
6 natural or physical environment that significantly and
7 adversely affects an environmental justice community. Such
8 impacts may include, but are not limited to, ecological,
9 cultural, human health, economic, or social impacts on
10 minority communities, low-income communities, or Indian
11 tribes when those impacts are interrelated to impacts on
12 the natural or physical environment.

13 (2) Whether environmental impacts are significant and
14 are or may be having an adverse impact on an environmental
15 justice community that appreciably exceeds, or is likely
16 to appreciably exceed, the adverse impact on the general
17 population or other appropriate comparison group.

18 (3) Whether the environmental impacts occur or would
19 occur in an environmental justice community by cumulative
20 or multiple adverse exposures from environmental hazards.

21 (415 ILCS 5/3.188 new)

22 Sec. 3.188. Disproportionately high and adverse human
23 health impact. "Disproportionately high and adverse human
24 health impact" means an impact on human health that is
25 disproportionately high and adverse based on the following

1 factors:

2 (1) Whether the health outcomes, which may be measured
3 in risks and rates, are significant or above generally
4 accepted norms. Adverse health impacts include, but are
5 not limited to, bodily impairment, infirmity, illness, or
6 death.

7 (2) Whether the risk or rate of hazard exposure for an
8 environmental justice community to an environmental hazard
9 is significant and appreciably exceeds, or is likely to
10 appreciably exceed, the risk or rate of hazard exposure
11 for the general population or in comparison to another
12 appropriate group.

13 (3) Whether health impacts occur in an environmental
14 justice community affected by cumulative or multiple
15 adverse exposures from environmental hazards.

16 (415 ILCS 5/3.189 new)

17 Sec. 3.189. Environmental justice community.

18 "Environmental justice community" means any geographic area in
19 the State that is contained within:

20 (1) an environmental justice community under the
21 Illinois Solar for All Program, as that definition is
22 updated from time to time by the Illinois Power Agency and
23 the Administrator of that Program, so long as the
24 community is designated as an environmental justice
25 community within 60 days of a community receiving

1 notification of a permit under the federal Clean Air Act;
2 or
3 (2) an R3 Area established under Section 10-40 of the
4 Cannabis Regulation and Tax Act.

5 (415 ILCS 5/3.281 new)

6 Sec. 3.281. Linguistically isolated community.

7 "Linguistically isolated community" means the population
8 within a United States Census Bureau tract composed of
9 individuals at least 20% of whom are age 14 years or older and
10 who speak English less than very well, based on data in the
11 United States Census Bureau's latest one-year or 5-year
12 American Community Survey.

13 (415 ILCS 5/34.5 new)

14 Sec. 34.5. Environmentally beneficial project bank.

15 (a) The Agency shall establish and maintain on its website
16 a bank of potential environmentally beneficial projects. The
17 website must permit members of the public to submit
18 suggestions for environmentally beneficial projects. The
19 Agency shall assess the submissions for feasibility and
20 clarity before inclusion in the bank.

21 (b) A supplemental environmental project is not required
22 to be included within the environmentally beneficial project
23 bank required under subsection (a) in order to offset a civil
24 penalty.

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

2 Sec. 39. Issuance of permits; procedures.

3 (a) When the Board has by regulation required a permit for
4 the construction, installation, or operation of any type of
5 facility, equipment, vehicle, vessel, or aircraft, the
6 applicant shall apply to the Agency for such permit and it
7 shall be the duty of the Agency to issue such a permit upon
8 proof by the applicant that the facility, equipment, vehicle,
9 vessel, or aircraft will not cause a violation of this Act or
10 of regulations hereunder and that denial of the permit is not
11 otherwise justified under this Section. The Agency shall adopt
12 such procedures as are necessary to carry out its duties under
13 this Section. In making its determinations on permit
14 applications under this Section the Agency shall ~~may~~ consider
15 prior adjudications of noncompliance with this Act by the
16 applicant that involved a release of a contaminant into the
17 environment. In granting permits, the Agency shall ~~may~~ impose
18 reasonable conditions specifically related to the applicant's
19 past compliance history with this Act as necessary to correct,
20 detect, or prevent noncompliance. The Agency shall ~~may~~ impose
21 such other conditions as ~~may be~~ necessary to accomplish the
22 purposes of this Act, and as are not inconsistent with the
23 regulations promulgated by the Board hereunder. Except as
24 otherwise provided in this Act, a bond or other security shall
25 not be required as a condition for the issuance of a permit. If

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

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

8 (ii) the provision of the regulations, promulgated
9 under this Act, which may be violated if the permit were
10 granted;

11 (iii) the specific type of information, if any, which
12 the Agency deems the applicant did not provide the Agency;
13 and

14 (iv) a statement of specific reasons why the Act and
15 the regulations might not be met if the permit were
16 granted.

17 If there is no final action by the Agency within 90 days
18 after the filing of the application for permit, the applicant
19 may deem the permit issued; except that this time period shall
20 be extended to 180 days when (1) notice and opportunity for
21 public hearing are required by State or federal law or
22 regulation, (2) the application which was filed is for any
23 permit to develop a landfill subject to issuance pursuant to
24 this subsection, or (3) the application that was filed is for a
25 MSWLF unit required to issue public notice under subsection
26 (p) of Section 39. The 90-day and 180-day time periods for the

1 Agency to take final action do not apply to NPDES permit
2 applications under subsection (b) of this Section, to RCRA
3 permit applications under subsection (d) of this Section, to
4 UIC permit applications under subsection (e) of this Section,
5 or to CCR surface impoundment applications under subsection
6 (y) of this Section.

7 The Agency shall publish notice of all final permit
8 determinations for development permits for MSWLF units and for
9 significant permit modifications for lateral expansions for
10 existing MSWLF units one time in a newspaper of general
11 circulation in the county in which the unit is or is proposed
12 to be located.

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

24 After June 30, 1998, operating permits issued under this
25 Section by the Agency for sources of air pollution that are not
26 subject to Section 39.5 of this Act and are not required to

1 have a federally enforceable State operating permit shall be
2 required to be renewed only upon written request by the Agency
3 consistent with applicable provisions of this Act and its
4 rules. Such operating permits shall expire 180 days after the
5 date of such a request. Before July 1, 1998, the Board shall
6 revise its rules for the existing State air pollution
7 operating permit program consistent with this paragraph and
8 shall adopt rules that require a source to demonstrate that it
9 qualifies for a permit under this paragraph.

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

15 All NPDES permits shall contain those terms and
16 conditions, including, but not limited to, schedules of
17 compliance, which may be required to accomplish the purposes
18 and provisions of this Act.

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

25 The Agency may include, among such conditions, effluent
26 limitations and other requirements established under this Act,

1 Board regulations, the Federal Water Pollution Control Act, as
2 now or hereafter amended, and regulations pursuant thereto,
3 and schedules for achieving compliance therewith at the
4 earliest reasonable date.

5 The Agency shall adopt filing requirements and procedures
6 which are necessary and appropriate for the issuance of NPDES
7 permits, and which are consistent with the Act or regulations
8 adopted by the Board, and with the Federal Water Pollution
9 Control Act, as now or hereafter amended, and regulations
10 pursuant thereto.

11 The Agency, subject to any conditions which may be
12 prescribed by Board regulations, may issue NPDES permits to
13 allow discharges beyond deadlines established by this Act or
14 by regulations of the Board without the requirement of a
15 variance, subject to the Federal Water Pollution Control Act,
16 as now or hereafter amended, and regulations pursuant thereto.

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

1 subsection (c), and for purposes of Section 39.2 of this Act,
2 the appropriate county board or governing body of the
3 municipality shall be the county board of the county or the
4 governing body of the municipality in which the facility is to
5 be located as of the date when the application for siting
6 approval is filed.

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

23 Beginning August 20, 1993, if the pollution control
24 facility consists of a hazardous or solid waste disposal
25 facility for which the proposed site is located in an
26 unincorporated area of a county with a population of less than

1 100,000 and includes all or a portion of a parcel of land that
2 was, on April 1, 1993, adjacent to a municipality having a
3 population of less than 5,000, then the local siting review
4 required under this subsection (c) in conjunction with any
5 permit applied for after that date shall be performed by the
6 governing body of that adjacent municipality rather than the
7 county board of the county in which the proposed site is
8 located; and for the purposes of that local siting review, any
9 references in this Act to the county board shall be deemed to
10 mean the governing body of that adjacent municipality;
11 provided, however, that the provisions of this paragraph shall
12 not apply to any proposed site which was, on April 1, 1993,
13 owned in whole or in part by another municipality.

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

24 After January 1, 1994, if a solid waste disposal facility,
25 any portion for which an operating permit has been issued by
26 the Agency, has not accepted waste disposal for 5 or more

1 consecutive calendar years, before that facility may accept
2 any new or additional waste for disposal, the owner and
3 operator must obtain a new operating permit under this Act for
4 that facility unless the owner and operator have applied to
5 the Agency for a permit authorizing the temporary suspension
6 of waste acceptance. The Agency may not issue a new operation
7 permit under this Act for the facility unless the applicant
8 has submitted proof to the Agency that the location of the
9 facility has been approved or re-approved by the appropriate
10 county board or municipal governing body under Section 39.2 of
11 this Act after the facility ceased accepting waste.

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

20 Before beginning construction on any new sewage treatment
21 plant or sludge drying site to be owned or operated by a
22 sanitary district organized under the Metropolitan Water
23 Reclamation District Act for which a new permit (rather than
24 the renewal or amendment of an existing permit) is required,
25 such sanitary district shall hold a public hearing within the
26 municipality within which the proposed facility is to be

1 located, or within the nearest community if the proposed
2 facility is to be located within an unincorporated area, at
3 which information concerning the proposed facility shall be
4 made available to the public, and members of the public shall
5 be given the opportunity to express their views concerning the
6 proposed facility.

7 The Agency may issue a permit for a municipal waste
8 transfer station without requiring approval pursuant to
9 Section 39.2 provided that the following demonstration is
10 made:

11 (1) the municipal waste transfer station was in
12 existence on or before January 1, 1979 and was in
13 continuous operation from January 1, 1979 to January 1,
14 1993;

15 (2) the operator submitted a permit application to the
16 Agency to develop and operate the municipal waste transfer
17 station during April of 1994;

18 (3) the operator can demonstrate that the county board
19 of the county, if the municipal waste transfer station is
20 in an unincorporated area, or the governing body of the
21 municipality, if the station is in an incorporated area,
22 does not object to resumption of the operation of the
23 station; and

24 (4) the site has local zoning approval.

25 (d) The Agency may issue RCRA permits exclusively under
26 this subsection to persons owning or operating a facility for

1 the treatment, storage, or disposal of hazardous waste as
2 defined under this Act. Subsection (y) of this Section, rather
3 than this subsection (d), shall apply to permits issued for
4 CCR surface impoundments.

5 All RCRA permits shall contain those terms and conditions,
6 including, but not limited to, schedules of compliance, which
7 may be required to accomplish the purposes and provisions of
8 this Act. The Agency may include among such conditions
9 standards and other requirements established under this Act,
10 Board regulations, the Resource Conservation and Recovery Act
11 of 1976 (P.L. 94-580), as amended, and regulations pursuant
12 thereto, and may include schedules for achieving compliance
13 therewith as soon as possible. The Agency shall require that a
14 performance bond or other security be provided as a condition
15 for the issuance of a RCRA permit.

16 In the case of a permit to operate a hazardous waste or PCB
17 incinerator as defined in subsection (k) of Section 44, the
18 Agency shall require, as a condition of the permit, that the
19 operator of the facility perform such analyses of the waste to
20 be incinerated as may be necessary and appropriate to ensure
21 the safe operation of the incinerator.

22 The Agency shall adopt filing requirements and procedures
23 which are necessary and appropriate for the issuance of RCRA
24 permits, and which are consistent with the Act or regulations
25 adopted by the Board, and with the Resource Conservation and
26 Recovery Act of 1976 (P.L. 94-580), as amended, and

1 regulations pursuant thereto.

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

11 (e) The Agency may issue UIC permits exclusively under
12 this subsection to persons owning or operating a facility for
13 the underground injection of contaminants as defined under
14 this Act.

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

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

1 permits, and which are consistent with the Act or regulations
2 adopted by the Board, and with the Safe Drinking Water Act
3 (P.L. 93-523), as amended, and regulations pursuant thereto.

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

13 (f) In making any determination pursuant to Section 9.1 of
14 this Act:

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

23 (2) The Agency shall adopt requirements as necessary
24 to implement public participation procedures, including,
25 but not limited to, public notice, comment, and an
26 opportunity for hearing, which must accompany the

1 processing of applications for PSD permits. The Agency
2 shall briefly describe and respond to all significant
3 comments on the draft permit raised during the public
4 comment period or during any hearing. The Agency may group
5 related comments together and provide one unified response
6 for each issue raised.

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

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

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

1 the hazardous waste disposal site is located.

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

1 from a response action, in which case the person performing
2 the response action is the generator. This subsection (h) does
3 not apply to any hazardous waste that is restricted from land
4 disposal under 35 Ill. Adm. Code 728.

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

19 (1) repeated violations of federal, State, or local
20 laws, regulations, standards, or ordinances in the
21 operation of waste management facilities or sites, clean
22 construction or demolition debris fill operation
23 facilities or sites, or tire storage sites; or

24 (2) conviction in this or another State of any crime
25 which is a felony under the laws of this State, or
26 conviction of a felony in a federal court; or conviction

1 in this or another state or federal court of any of the
2 following crimes: forgery, official misconduct, bribery,
3 perjury, or knowingly submitting false information under
4 any environmental law, regulation, or permit term or
5 condition; or

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

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

1 (j) The issuance under this Act of a permit to engage in
2 the surface mining of any resources other than fossil fuels
3 shall not relieve the permittee from its duty to comply with
4 any applicable local law regulating the commencement,
5 location, or operation of surface mining facilities.

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

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

23 (m) The Agency may issue permits to persons owning or
24 operating a facility for composting landscape waste. In
25 granting such permits, the Agency may impose such conditions
26 as may be necessary to accomplish the purposes of this Act, and

1 as are not inconsistent with applicable regulations
2 promulgated by the Board. Except as otherwise provided in this
3 Act, a bond or other security shall not be required as a
4 condition for the issuance of a permit. If the Agency denies
5 any permit pursuant to this subsection, the Agency shall
6 transmit to the applicant within the time limitations of this
7 subsection specific, detailed statements as to the reasons the
8 permit application was denied. Such statements shall include
9 but not be limited to the following:

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

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

14 (3) the specific information, if any, the Agency deems
15 the applicant did not provide in its application to the
16 Agency; and

17 (4) a statement of specific reasons why the Act and
18 the regulations might be violated if the permit were
19 granted.

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

25 The Agency shall issue permits for such facilities upon
26 receipt of an application that includes a legal description of

1 the site, a topographic map of the site drawn to the scale of
2 200 feet to the inch or larger, a description of the operation,
3 including the area served, an estimate of the volume of
4 materials to be processed, and documentation that:

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

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

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

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

22 (5) the operation of the facility will include
23 appropriate dust and odor control measures, limitations on
24 operating hours, appropriate noise control measures for
25 shredding, chipping and similar equipment, management
26 procedures for composting, containment and disposal of

1 non-compostable wastes, procedures to be used for
2 terminating operations at the site, and recordkeeping
3 sufficient to document the amount of materials received,
4 composted, and otherwise disposed of; and

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

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

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

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

20 (o) (Blank).

21 (p) (1) Any person submitting an application for a permit
22 for a new MSWLF unit or for a lateral expansion under
23 subsection (t) of Section 21 of this Act for an existing MSWLF
24 unit that has not received and is not subject to local siting
25 approval under Section 39.2 of this Act shall publish notice
26 of the application in a newspaper of general circulation in

1 the county in which the MSWLF unit is or is proposed to be
2 located. The notice must be published at least 15 days before
3 submission of the permit application to the Agency. The notice
4 shall state the name and address of the applicant, the
5 location of the MSWLF unit or proposed MSWLF unit, the nature
6 and size of the MSWLF unit or proposed MSWLF unit, the nature
7 of the activity proposed, the probable life of the proposed
8 activity, the date the permit application will be submitted,
9 and a statement that persons may file written comments with
10 the Agency concerning the permit application within 30 days
11 after the filing of the permit application unless the time
12 period to submit comments is extended by the Agency.

13 When a permit applicant submits information to the Agency
14 to supplement a permit application being reviewed by the
15 Agency, the applicant shall not be required to reissue the
16 notice under this subsection.

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

21 (3) Each applicant for a permit described in part (1) of
22 this subsection shall file a copy of the permit application
23 with the county board or governing body of the municipality in
24 which the MSWLF unit is or is proposed to be located at the
25 same time the application is submitted to the Agency. The
26 permit application filed with the county board or governing

1 body of the municipality shall include all documents submitted
2 to or to be submitted to the Agency, except trade secrets as
3 determined under Section 7.1 of this Act. The permit
4 application and other documents on file with the county board
5 or governing body of the municipality shall be made available
6 for public inspection during regular business hours at the
7 office of the county board or the governing body of the
8 municipality and may be copied upon payment of the actual cost
9 of reproduction.

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

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

24 (2) Within 2 years after July 12, 2011 (the effective
25 date of Public Act 97-95), permit application forms or
26 portions of permit applications that can be completed and

1 saved electronically, and submitted to the Agency
2 electronically with digital signatures.

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

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

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

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

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

15 (s) The Agency is authorized to prepare and distribute
16 guidance documents relating to its administration of this
17 Section and procedural rules implementing this Section.
18 Guidance documents prepared under this subsection shall not be
19 considered rules and shall not be subject to the Illinois
20 Administrative Procedure Act. Such guidance shall not be
21 binding on any party.

22 (t) Except as otherwise prohibited by federal law or
23 regulation, any person submitting an application for a permit
24 may include with the application suggested permit language for
25 Agency consideration. The Agency is not obligated to use the
26 suggested language or any portion thereof in its permitting

1 decision. If requested by the permit applicant, the Agency
2 shall meet with the applicant to discuss the suggested
3 language.

4 (u) If requested by the permit applicant, the Agency shall
5 provide the permit applicant with a copy of the draft permit
6 prior to any public review period.

7 (v) If requested by the permit applicant, the Agency shall
8 provide the permit applicant with a copy of the final permit
9 prior to its issuance.

10 (w) An air pollution permit shall not be required due to
11 emissions of greenhouse gases, as specified by Section 9.15 of
12 this Act.

13 (x) If, before the expiration of a State operating permit
14 that is issued pursuant to subsection (a) of this Section and
15 contains federally enforceable conditions limiting the
16 potential to emit of the source to a level below the major
17 source threshold for that source so as to exclude the source
18 from the Clean Air Act Permit Program, the Agency receives a
19 complete application for the renewal of that permit, then all
20 of the terms and conditions of the permit shall remain in
21 effect until final administrative action has been taken on the
22 application for the renewal of the permit.

23 (y) The Agency may issue permits exclusively under this
24 subsection to persons owning or operating a CCR surface
25 impoundment subject to Section 22.59.

26 All CCR surface impoundment permits shall contain those

1 terms and conditions, including, but not limited to, schedules
2 of compliance, which may be required to accomplish the
3 purposes and provisions of this Act, Board regulations, the
4 Illinois Groundwater Protection Act and regulations pursuant
5 thereto, and the Resource Conservation and Recovery Act and
6 regulations pursuant thereto, and may include schedules for
7 achieving compliance therewith as soon as possible.

8 The Board shall adopt filing requirements and procedures
9 that are necessary and appropriate for the issuance of CCR
10 surface impoundment permits and that are consistent with this
11 Act or regulations adopted by the Board, and with the RCRA, as
12 amended, and regulations pursuant thereto.

13 The applicant shall make available to the public for
14 inspection all documents submitted by the applicant to the
15 Agency in furtherance of an application, with the exception of
16 trade secrets, on its public internet website as well as at the
17 office of the county board or governing body of the
18 municipality where CCR from the CCR surface impoundment will
19 be permanently disposed. Such documents may be copied upon
20 payment of the actual cost of reproduction during regular
21 business hours of the local office.

22 The Agency shall issue a written statement concurrent with
23 its grant or denial of the permit explaining the basis for its
24 decision.

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 (aa) The Agency shall not issue any of the following
25 construction permits unless the applicant for the permit
26 submits to the Agency with its permit application proof that

1 the permit applicant has conducted a public meeting pursuant
2 to this subsection (aa) and submitted an environmental justice
3 assessment pursuant to subsection (bb): (i) a construction
4 permit for a new source that is to be located in an
5 environmental justice community, that will require a CAAPP
6 permit or a federally enforceable State operating permit, and
7 that would be authorized under that permit to increase annual
8 permitted emissions; (ii) a construction permit for any
9 existing source that is located in an environmental justice
10 community, that, on the effective date of this amendatory Act
11 of the 104th General Assembly, possesses a CAAPP permit or
12 federally enforceable State operating permit, and that would
13 be authorized under that permit to increase annual permitted
14 emissions; or (iii) a construction permit for any existing
15 source that is located in an environmental justice community,
16 that would require a new CAAPP permit or new federally
17 enforceable State operating permit for the first time, and
18 that would be authorized under that permit to increase annual
19 permitted emissions. This subsection (aa) also applies to
20 permit applications for modifications or expansions to
21 existing sources that will result in an increase in the hourly
22 rate of emissions or the total annual emissions of any air
23 pollutant. The public meeting required under this subsection
24 (aa) shall be held within the environmental justice community
25 where the proposed source is located or to be located, and the
26 applicant shall collect public comments at the meeting.

1 (1) Notice of the public meeting shall be provided 30
2 days in advance to:

3 (A) local elected officials in the area where the
4 proposed source is to be located, including the mayor
5 or village president, municipal clerk, county board
6 chairman, county clerk, and State's Attorney;

7 (B) members of the General Assembly from the
8 legislative district in which the proposed source is
9 to be located; and

10 (C) directors of child care centers licensed by
11 the Department of Children and Family Services, school
12 principals, and public park superintendents who
13 oversee facilities located within one mile of the
14 proposed source.

15 (2) Notice of the public meeting shall be published in
16 a newspaper of general circulation.

17 (3) Notice of the public meeting shall be posted on a
18 website of the applicant with a link provided to the
19 Agency for posting on the Agency's website.

20 (4) Notice of the public meeting shall include all of
21 the following:

22 (A) the name and address of the applicant and the
23 proposed source;

24 (B) the activity or activities at the proposed
25 source to be permitted;

26 (C) the proposed source's anticipated potential to

1 emit and allowable emissions of regulated pollutants;

2 (D) the date, time, and location of the public
3 meeting;

4 (E) the deadline for submission of written
5 comments;

6 (F) the mailing address or email address where
7 written comments can be submitted; and

8 (G) the website where the summary of the
9 environmental justice assessment required under
10 subsection (bb) can be accessed.

11 (5) If the population of individuals who reside within
12 one mile of the source includes individuals within a
13 linguistically isolated community, then the applicant
14 shall provide the public notice in a multilingual format
15 appropriate to the needs of the linguistically isolated
16 community and shall provide oral and written translation
17 services at the public meeting.

18 At the public meeting, the applicant shall present a
19 summary of the environmental justice assessment required under
20 subsection (bb).

21 The applicant must accept written public comments from the
22 date public notice of the meeting is provided until at least 30
23 days after the date of the public meeting.

24 The applicant must provide with its permit application a
25 copy of the meeting notice and a certification, under penalty
26 of law, signed by a responsible official for the permit

1 applicant attesting (i) to the fact that a public meeting was
2 held, (ii) to the information that was provided by the
3 applicant at the public meeting, and (iii) that the applicant
4 collected written comments and transcribed oral public
5 comments in accordance with the requirements of this
6 subsection (aa).

7 The failure of the applicant to comply with the express
8 procedural requirements under this subsection (aa) shall
9 result in denial of a permit application submitted to the
10 Agency.

11 The Agency may propose and the Board may adopt rules
12 regarding the implementation of this subsection (aa).

13 (bb) The Agency shall not issue any of the construction
14 permits described in subsection (aa) unless the applicant for
15 the permit submits to the Agency with its permit application
16 proof that the permit applicant has conducted an environmental
17 justice assessment for the proposed project. The environmental
18 justice assessment shall consist of the following:

19 (1) Air dispersion modeling examining the air
20 quality-related impacts from the proposed project in
21 combination with existing mobile and stationary air
22 pollutant emitting sources.

23 The air dispersion modeling must address emissions
24 associated with issuance of the permit.

25 If the air dispersion modeling reveals estimated off-site
26 impacts from the proposed project, the applicant shall also

1 identify efforts that will be undertaken by the applicant
2 during the construction or operation of the new source to
3 mitigate such impacts.

4 (2) A modeling protocol submitted to the Agency for review
5 and consideration prior to performance of the air dispersion
6 modeling. The modeling protocol shall include analyses
7 sufficient to evaluate short-term impacts to air quality and
8 impacts to air quality from nonstandard operating conditions,
9 such as worst-case emission estimates under a variety of
10 weather and atmospheric conditions and emissions associated
11 with startup, shutdown, maintenance, and outages. Any Agency
12 recommendations for revisions to the modeling protocol shall
13 be provided in writing to the applicant within 120 days after
14 receipt of the modeling protocol. The modeling shall be
15 performed using accepted USEPA methodologies.

16 (3) An environmental impact review evaluating the direct,
17 indirect, and cumulative environmental impacts within the
18 environmental justice community that are associated with the
19 proposed project. The environmental impact review shall
20 include, but shall not be limited to, the following:

21 (A) a qualitative and quantitative assessment of
22 emissions-related impacts of the project on the area,
23 including an estimate of the maximum allowable emissions
24 of criteria pollutants and hazardous air pollutants from
25 the source; and

26 (B) an assessment of the health-based indicators for

1 inhalation exposure, including, but not limited to,
2 impacts to the respiratory, hematological, neurological,
3 cardiovascular, renal, and hepatic systems and cancer
4 rates.

5 The environmental justice assessment must be completed by
6 an independent third party.

7 If the environmental justice assessment shows that the
8 proposed project will cause harm to the environment or public
9 health, the Agency shall impose conditions in the permit that
10 will mitigate such harm, or it shall deny the permit if such
11 harm is unavoidable and causes or contributes to
12 disproportionate harm.

13 The Agency shall propose and the Board shall adopt rules
14 regarding the implementation of this subsection (bb),
15 including, at a minimum, the type and nature of air dispersion
16 modeling, the contents of the modeling protocol and
17 environmental impact review, and a description of harm and
18 disproportionate harm that may be evidenced by the
19 environmental justice assessment.

20 (cc) The Agency shall not issue any of the following
21 construction permits unless the Agency conducts an evaluation
22 of the prospective owner's or operator's prior experience in
23 owning and operating sources of air pollution: (i) a
24 construction permit for a new source that is to be located in
25 an environmental justice community, that will require a CAAPP
26 permit or a federally enforceable State operating permit, and

1 that would be authorized under that permit to increase annual
2 permitted emissions; (ii) a construction permit for any
3 existing source that is located in an environmental justice
4 community, that, on the effective date of this amendatory Act
5 of the 104th General Assembly, possesses a CAAPP permit or
6 federally enforceable State operating permit, and that would
7 be authorized under that permit to increase annual permitted
8 emissions; or (iii) a construction permit for any existing
9 source that is located in an environmental justice community,
10 that would require a new CAAPP permit or new federally
11 enforceable State operating permit for the first time, and
12 that would be authorized under that permit to increase annual
13 permitted emissions. The Agency may deny the permit if the
14 prospective owner or operator or any employee or officer of
15 the prospective owner or operator or any board member has a
16 history of:

17 (1) repeated violations of federal, State, or local
18 laws, rules, regulations, standards, or ordinances in the
19 ownership or operation of sources of air pollution;

20 (2) conviction in this State, another state, or
21 federal court of knowingly submitting false information
22 under any environmental law, rule, regulation, or permit
23 term or condition; or

24 (3) proof of gross carelessness or incompetence in the
25 ownership or operation of a source of air pollution.

26 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;

1 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

2 (415 ILCS 5/39.15 new)

3 Sec. 39.15. Environmental justice considerations in
4 permitting.

5 (a) The following public participation requirements for
6 permitting transactions in an environmental justice community
7 must be complied with:

8 (1) If an application for a permit, permit renewal, or
9 permit modification is subject to public notice and
10 comment requirements under this Act, rules adopted by the
11 Board, or rules adopted by the Agency, and the application
12 is for a facility or source in an environmental justice
13 community, the Agency must comply with existing applicable
14 requirements for public notice.

15 (2) In addition to the public notice requirements
16 referenced in paragraph (1), the Agency shall provide the
17 public with notice of an application for a permit, permit
18 renewal, or permit modification if the facility or
19 proposed facility is located or is to be located in an
20 environmental justice community for individual minor or
21 major NPDES permits issued under subsection (b) of Section
22 39.

23 The public notice shall be provided: (i) by prominent
24 placement at a dedicated page on the Agency's website; (ii) to
25 local elected officials in the area where the facility or

1 proposed facility is located or is to be located, including
2 the mayor or president, clerk, county board chairman, county
3 clerk, and State's Attorney; and (iii) to members of the
4 General Assembly from the legislative district in which the
5 facility or proposed facility is located or is to be located.

6 The public notice shall include: (i) the name and address
7 of the permit applicant and the facility or proposed facility;
8 and (ii) the activity or activities at the facility or
9 proposed facility being permitted.

10 (b) If the population of individuals who reside within one
11 mile of the site or facility includes individuals within a
12 linguistically isolated community, then the Agency must also
13 provide:

14 (1) all public notices required by this Section in a
15 multilingual format appropriate to the needs of the
16 linguistically isolated community; and

17 (2) oral and written translation services at public
18 hearings.

19 (c) For permit applications for facilities in an
20 environmental justice community, the Director of the Agency
21 may grant extensions of any permitting deadlines established
22 in this Act by up to an additional 180 days to allow for
23 additional review of the permit application by the Agency or
24 additional public participation. Any exercise of this
25 authority shall be provided in writing to the permit applicant
26 with the specific reason and new permitting deadline.

1 (d) Further, for any of the following construction
2 permits, the Agency shall conduct an evaluation of the
3 prospective owner's or operator's prior experience in owning
4 and operating sources of air pollution: (i) a construction
5 permit for a new source that is to be located in an
6 environmental justice community, that will require a CAAPP
7 permit or a federally enforceable State operating permit, and
8 that would be authorized under that permit to increase annual
9 permitted emissions; (ii) a construction permit for any
10 existing source that is located in an environmental justice
11 community that, on the effective date of this amendatory Act
12 of the 104th General Assembly, possesses a CAAPP permit or
13 federally enforceable State operating permit and that would be
14 authorized under that permit to increase annual permitted
15 emissions; or (iii) a construction permit for any existing
16 source that is located in an environmental justice community
17 that would require a new CAAPP permit or new federally
18 enforceable State operating permit for the first time and that
19 would be authorized under that permit to increase annual
20 permitted emissions. The Agency has the authority to deny such
21 a permit transaction if the prospective owner or operator or
22 any employee or officer of the prospective owner or operator
23 or board member or manager has a history of:

24 (1) repeated violations of federal, State, or local
25 laws, rules, regulations, standards, or ordinances in the
26 ownership or operation of sources of air pollution;

1 (2) conviction in this State, another state, or
2 federal court of knowingly submitting false information
3 under any law, rule, regulation, or permit term or
4 condition regarding the environment; or

5 (3) proof of gross carelessness or incompetence in the
6 ownership or operation of a source of air pollution.

7 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

8 Sec. 40. Appeal of permit denial.

9 (a)(1) If the Agency refuses to grant or grants with
10 conditions a permit under Section 39 of this Act, the
11 applicant may, within 35 days after the date on which the
12 Agency served its decision on the applicant, petition for a
13 hearing before the Board to contest the decision of the
14 Agency. However, the 35-day period for petitioning for a
15 hearing may be extended for an additional period of time not to
16 exceed 90 days by written notice provided to the Board from the
17 applicant and the Agency within the initial appeal period. The
18 Board shall give 21 days' notice to any person in the county
19 where is located the facility in issue who has requested
20 notice of enforcement proceedings and to each member of the
21 General Assembly in whose legislative district that
22 installation or property is located; and shall publish that
23 21-day notice in a newspaper of general circulation in that
24 county. The Agency shall appear as respondent in such hearing.
25 At such hearing the rules prescribed in Section 32 and

1 subsection (a) of Section 33 of this Act shall apply, and the
2 burden of proof shall be on the petitioner. If, however, the
3 Agency issues an NPDES permit that imposes limits which are
4 based upon a criterion or denies a permit based upon
5 application of a criterion, then the Agency shall have the
6 burden of going forward with the basis for the derivation of
7 those limits or criterion which were derived under the Board's
8 rules.

9 (2) Except as provided in paragraph (a)(3), if there is no
10 final action by the Board within 120 days after the date on
11 which it received the petition, the petitioner may deem the
12 permit issued under this Act, provided, however, that that
13 period of 120 days shall not run for any period of time, not to
14 exceed 30 days, during which the Board is without sufficient
15 membership to constitute the quorum required by subsection (a)
16 of Section 5 of this Act, and provided further that such 120
17 day period shall not be stayed for lack of quorum beyond 30
18 days regardless of whether the lack of quorum exists at the
19 beginning of such 120-day period or occurs during the running
20 of such 120-day period.

21 (3) Paragraph (a)(2) shall not apply to any permit which
22 is subject to subsection (b), (d) or (e) of Section 39. If
23 there is no final action by the Board within 120 days after the
24 date on which it received the petition, the petitioner shall
25 be entitled to an Appellate Court order pursuant to subsection
26 (d) of Section 41 of this Act.

1 (b) If the Agency grants a RCRA permit for a hazardous
2 waste disposal site, a third party, other than the permit
3 applicant or Agency, may, within 35 days after the date on
4 which the Agency issued its decision, petition the Board for a
5 hearing to contest the issuance of the permit. Unless the
6 Board determines that such petition is duplicative or
7 frivolous, or that the petitioner is so located as to not be
8 affected by the permitted facility, the Board shall hear the
9 petition in accordance with the terms of subsection (a) of
10 this Section and its procedural rules governing denial
11 appeals, such hearing to be based exclusively on the record
12 before the Agency. The burden of proof shall be on the
13 petitioner. The Agency and the permit applicant shall be named
14 co-respondents.

15 The provisions of this subsection do not apply to the
16 granting of permits issued for the disposal or utilization of
17 sludge from publicly owned sewage works.

18 (c) Any party to an Agency proceeding conducted pursuant
19 to Section 39.3 of this Act may petition as of right to the
20 Board for review of the Agency's decision within 35 days from
21 the date of issuance of the Agency's decision, provided that
22 such appeal is not duplicative or frivolous. However, the
23 35-day period for petitioning for a hearing may be extended by
24 the applicant for a period of time not to exceed 90 days by
25 written notice provided to the Board from the applicant and
26 the Agency within the initial appeal period. If another person

1 with standing to appeal wishes to obtain an extension, there
2 must be a written notice provided to the Board by that person,
3 the Agency, and the applicant, within the initial appeal
4 period. The decision of the Board shall be based exclusively
5 on the record compiled in the Agency proceeding. In other
6 respects the Board's review shall be conducted in accordance
7 with subsection (a) of this Section and the Board's procedural
8 rules governing permit denial appeals.

9 (d) In reviewing the denial or any condition of a NA NSR
10 permit issued by the Agency pursuant to rules and regulations
11 adopted under subsection (c) of Section 9.1 of this Act, the
12 decision of the Board shall be based exclusively on the record
13 before the Agency including the record of the hearing, if any,
14 unless the parties agree to supplement the record. The Board
15 shall, if it finds the Agency is in error, make a final
16 determination as to the substantive limitations of the permit
17 including a final determination of Lowest Achievable Emission
18 Rate.

19 (e)(1) If the Agency grants or denies a permit under
20 subsection (b) of Section 39 of this Act, a third party, other
21 than the permit applicant or Agency, may petition the Board
22 within 35 days from the date of issuance of the Agency's
23 decision, for a hearing to contest the decision of the Agency.

24 (2) A petitioner shall include the following within a
25 petition submitted under subdivision (1) of this subsection:

26 (A) a demonstration that the petitioner raised the

1 issues contained within the petition during the public
2 notice period or during the public hearing on the NPDES
3 permit application, if a public hearing was held; and

4 (B) a demonstration that the petitioner is so situated
5 as to be affected by the permitted facility.

6 (3) If the Board determines that the petition is not
7 duplicative or frivolous and contains a satisfactory
8 demonstration under subdivision (2) of this subsection, the
9 Board shall hear the petition (i) in accordance with the terms
10 of subsection (a) of this Section and its procedural rules
11 governing permit denial appeals and (ii) exclusively on the
12 basis of the record before the Agency. The burden of proof
13 shall be on the petitioner. The Agency and permit applicant
14 shall be named co-respondents.

15 (f) Any person who files a petition to contest the
16 issuance of a permit by the Agency shall pay a filing fee.

17 (g) If the Agency grants or denies a permit under
18 subsection (y) of Section 39, a third party, other than the
19 permit applicant or Agency, may appeal the Agency's decision
20 as provided under federal law for CCR surface impoundment
21 permits.

22 (h) If the Agency grants a permit to construct, modify, or
23 operate a facility that emits air pollutants and is classified
24 as a minor source, a third party, other than the permit
25 applicant or Agency, may, within 35 days after the date on
26 which the Agency issued its decision, petition the Board for a

1 hearing to contest the issuance of the permit. Unless the
2 Board determines that the petition is duplicative or frivolous
3 or that the petitioner is so located as to not be affected by
4 the permitted facility, the Board shall hear the petition in
5 accordance with the terms of subsection (a) of this Section
6 and its procedural rules governing denial appeals. The hearing
7 shall be based exclusively on the record before the Agency.
8 The burden of proof shall be on the petitioner. The Agency and
9 the permit applicant shall be named co-respondents.

10 (Source: P.A. 101-171, eff. 7-30-19; 102-558, eff. 8-20-21.)

11 (415 ILCS 5/40.4 new)

12 Sec. 40.4. Environmental justice grievance.

13 (a) An environmental justice grievance process, subject to
14 the provisions of this Section, applies to complaints alleging
15 violations of Section 601 of the federal Civil Rights Act of
16 1964.

17 (b) An environmental justice grievance must allege
18 discrimination on the basis of an individual's actual or
19 perceived race, color, religion, national origin, citizenship,
20 ancestry, age, sex, marital status, order of protection
21 status, conviction record, arrest record, disability, military
22 status, sexual orientation, gender identity, gender
23 expression, pregnancy, or unfavorable discharge from military
24 service.

25 (c) To initiate the environmental justice grievance

1 process a person must file a complaint with the Agency within
2 60 days after an alleged violation. The Agency, in its
3 discretion, may waive the 60-day deadline for good cause. The
4 complaint must: (1) be in writing; (2) describe with
5 specificity the discrimination alleged; and (3) identify the
6 parties impacted by the alleged discrimination.

7 (d) The complaint under subsection (c) must be addressed
8 to the Illinois Environmental Protection Agency Environmental
9 Justice Officer at the address of record for the Environmental
10 Justice Officer.

11 (e) Within 10 days after receiving the complaint filed
12 under subsection (c), the Agency shall provide written notice
13 of receipt and acceptance of the complaint. If the Agency
14 determines that it has jurisdiction to review the complaint,
15 the complaint will be considered meritorious, unless:

16 (1) the complaint clearly appears on its face to be
17 frivolous or trivial;

18 (2) the complaint is not timely and good cause does
19 not exist to waive timeliness;

20 (3) the Agency, within the time allotted to
21 investigate the complaint, voluntarily concedes
22 noncompliance and agrees to take appropriate remedial
23 action or agrees to an informal resolution of the
24 complaint; or

25 (4) the complainant, within the time allotted for the
26 complaint to be investigated, withdraws the complaint.

1 (f) Within 120 days after the date it provides written
2 notice of receipt and acceptance of the complaint under
3 subsection (e), the Agency shall make a determination of
4 jurisdiction and the merits of the complaint, conduct an
5 investigation, and provide a proposed resolution, if
6 appropriate, to the extent practicable and allowable under
7 existing laws and regulations.

8 (g) The Agency may propose, and the Board may adopt, rules
9 for the implementation and administration of this Section.