



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3772

Introduced 2/5/2026, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

415 ILCS 5/39.16 new
415 ILCS 155/15 new

Amends the Environmental Protection Act. Provides that, beginning January 1, 2027, upon receipt of certain air pollution control construction permit applications, the Environmental Protection Agency shall evaluate (i) whether the applicable source falls within an area of environmental justice concern and, if so, notify specified persons; (ii) whether emissions can be reduced or limited; (iii) whether additional air quality modeling is needed; and (iv) whether specified permit enhancements are needed. Requires the Agency's permitting decisions to be informed by the applicant's history of violations of environmental laws and other factors. Allows the Agency to adopt rules. Amends the Environmental Justice Act. Establishes the Office of Environmental Justice within the Environmental Protection Agency to coordinate the integration of environmental justice into Agency programs and for other purposes. Requires the Director of the Environmental Protection Agency to appoint an Environmental Justice Officer to administer the Office of Environmental Justice. Effective immediately.

LRB104 16637 BDA 30040 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 adding Section 39.16 as follows:

6 (415 ILCS 5/39.16 new)

7 Sec. 39.16. Air pollution control construction permitting
8 in areas of environmental justice concern.

9 (a) In this Section:

10 "Area of environmental justice concern" or "area of EJ
11 concern" means a geographic area, the population of which
12 potentially experiences disproportionate environmental harms
13 and risks as a result of both environmental and socioeconomic
14 conditions that may act cumulatively to affect health and the
15 environment and contribute to persistent environmental health
16 disparities. "Area of environmental justice concern" or "area
17 of EJ concern" includes (i) all census block groups identified
18 by the Agency on a triennial basis as having an environmental
19 risk score that is in the top quarter of all census blocks in
20 the State and (ii) all areas within one mile of a census block
21 group identified under item (i).

22 "Environmental risk score" means the product that results
23 from multiplying the weighted mean of the percentiles of each

1 environmental indicator set forth in paragraph (1) for the
2 census block by the mean of the percentiles of each
3 socioeconomic indicator set forth in paragraph (2) for the
4 census block:

5 (1) The environmental indicators to be used for the
6 calculation of environmental risk scores are the
7 following, each calculated as a percentile compared to the
8 rest of the State:

9 (A) the annual average concentration of
10 particulate matter less than 2.5 microns or smaller in
11 diameter;

12 (B) the annual average concentration of ozone;

13 (C) the annual average concentration of nitrogen
14 dioxide;

15 (D) the annual average concentration of diesel
16 particulate matter;

17 (E) the annual average toxicity-weighted
18 concentrations of Toxic Release Inventory-listed
19 chemicals;

20 (F) the annual vehicle traffic;

21 (G) the number of drinking water violations that
22 have not been returned to compliance;

23 (H) the percentage of housing units built
24 pre-1960;

25 (I) the number of proposed or listed National
26 Priorities List sites;

1 (J) the number of facilities with Risk Management
2 Plans;

3 (K) the number of treatment, storage, and disposal
4 and large-quantity generator hazardous waste
5 facilities;

6 (L) the number of leaking underground storage
7 tanks and underground storage tanks; and

8 (M) the concentrations of toxic chemicals at
9 stream segments.

10 In calculating the weighted mean of the environmental
11 indicator percentiles, environmental indicators in
12 subparagraphs (G) through (M) of paragraph (1) shall be
13 given half the weight of environmental indicators in
14 subparagraphs (A) through (F) of paragraph (1).

15 (2) The socioeconomic indicators to be used for the
16 calculation of environmental risk scores are the
17 following, each calculated as a percentile compared to the
18 rest of the State:

19 (A) the percentage of the population with a
20 household income less than or equal to twice the
21 federal poverty level;

22 (B) the percentage of the population that is
23 unemployed;

24 (C) the percentage of the population living in
25 limited English proficiency households;

26 (D) the percentage of the population aged 25 or

1 older who do not have a high school diploma;

2 (E) the percentage of the population under the age
3 of 5; and

4 (F) the percentage of the population over the age
5 of 64.

6 (b) This Section applies to the following permits for
7 which an owner or operator applies after January 1, 2027:

8 (1) a construction permit for a new source that is to
9 be located in an area of EJ concern and that will require a
10 Clean Air Act Permit Program permit or a Federally
11 Enforceable State Operating Permit issued by the Agency
12 under Section 39.5 of this Act;

13 (2) a construction permit for any existing source that
14 is located in an area of EJ concern, that possesses a Clean
15 Air Act Permit Program permit or a Federally Enforceable
16 State Operating Permit issued by the Agency under Section
17 39.5 of this Act, and that seeks an increase in annual
18 permitted emissions; or

19 (3) a construction permit for any existing source that
20 is located in an area of EJ concern, that seeks an increase
21 in annual permitted emissions, and that will require a new
22 Clean Air Act Permit Program permit or a Federally
23 Enforceable State Operating Permit issued by the Agency
24 under Section 39.5 of this Act for the first time.

25 (c) Upon receipt of an air pollution control construction
26 permit application for a permit to which this Section applies,

1 the Agency shall evaluate the application to determine:

2 (1) whether the source falls within an area of EJ
3 concern, and, if so, the Agency shall send an
4 environmental justice notification letter to elected
5 officials, community groups, and individuals who have
6 requested to be notified, to provide information about the
7 proposed project and how an individual can request a
8 public hearing on a permit application;

9 (2) whether emissions increases from the proposed
10 project can be reduced or voluntarily limited by the
11 applicant to avoid or minimize potential impacts to any
12 affected area of EJ concern by, among other things,
13 establishing lower potential-to-emit thresholds,
14 installing alternative pollution controls, or decreasing
15 use of other units at the facility; and

16 (3) the need for the applicant to conduct additional
17 air quality modeling to confirm that the project will not
18 threaten or compromise existing National Ambient Air
19 Quality Standards or other applicable standards
20 appropriate for comparison with other pollutants of
21 concern.

22 (d) The Agency shall evaluate and, if necessary to comply
23 with this Act, include appropriate permit enhancements to
24 address potential impacts to an area of EJ concern. These
25 enhancements may include, but are not limited to:

26 (1) improved air monitoring systems, including

- 1 parametric and continuous monitoring systems;
- 2 (2) development of a fugitive dust operating program
3 or plan or enhancements to an existing program or plan;
- 4 (3) consideration of operational requirements to
5 establish limits on potential-to-emit or to demonstrate
6 source compliance with an emission rate;
- 7 (4) increased use or frequency of emissions testing;
- 8 (5) development of enforceable requirements to go into
9 the construction permit to ensure that the source meets
10 modeling assumptions used in the air quality modeling,
11 including hours of operation, operating requirements,
12 operating schedule, meteorological assumptions, property
13 boundaries, and other similar modeling assumptions used in
14 the air quality modeling;
- 15 (6) development of an odor control plan to identify
16 and mitigate potential off-site odor impacts from the
17 project;
- 18 (7) development of odor monitoring of third-party
19 complaints, including a process for tracking complaints
20 and inspecting affected process operations known to be
21 capable of causing air pollution;
- 22 (8) discretionary use of previous adjudications of
23 violations of this Act and rules adopted under this Act by
24 the applicant that involve a release of a contaminant into
25 the environment in evaluating the permit application;
- 26 (9) discretionary use of reasonable conditions

1 specifically related to an applicant's past compliance
2 history with this Act and rules adopted under this Act as
3 necessary to correct, detect, or prevent noncompliance
4 with this Act;

5 (10) encouraging the use of pollution prevention
6 techniques; or

7 (11) encouraging applicant outreach, independent of
8 the permit review process, with the affected community.

9 (e) The Agency may also conduct further analysis, as
10 needed, to inform its permit decision under subsection (d),
11 including:

12 (1) consideration of information relating to other
13 sources permitted by the Agency or the United States
14 Environmental Protection Agency;

15 (2) information relating to regulated sources under
16 State or federal environmental laws;

17 (3) data bearing upon the classification of an area of
18 EJ concern;

19 (4) location of sensitive populations or places near
20 the proposed facility, including schools, hospitals, day
21 care centers, and culturally significant resources;

22 (5) factors that may increase community exposure or
23 vulnerability as compared to other populations; and

24 (6) consultation with the United States Environmental
25 Protection Agency or other State and federal regulatory
26 authorities regarding additional areas of study.

1 (f) If the Agency's analysis described in this Section
2 shows disproportionate and adverse effects to an area of EJ
3 concern, the Agency shall:

4 (1) consider making additional refinements to the
5 project emissions analysis, air quality modeling, or
6 permit enhancements;

7 (2) prioritize compliance inspections and any
8 resulting enforcement initiatives of an applicant's
9 existing permitted source or other contributing sources to
10 the affected area, with the aim of reducing existing
11 adverse impacts;

12 (3) prioritize grant funding for projects in the
13 affected community; and

14 (4) conduct consultations with the United States
15 Environmental Protection Agency or other State or federal
16 agencies relating to potential mitigation options,
17 including fence-line monitoring, risk assessments, or
18 rulemakings.

19 (g) The Agency shall not issue a construction permit
20 identified in subsection (b) of this Section unless the Agency
21 conducts an evaluation of the prospective owner's or
22 operator's previous experience in owning and operating sources
23 of air pollution. The Agency may deny the permit if the
24 prospective owner or operator or any one or more of its board
25 members have a history of:

26 (1) repeated violations of federal, State, or local

1 laws, rules, regulations, standards, or ordinances in the
2 ownership or operation of sources of air pollution;

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

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

9 (h) In making its determination under subsection (g)
10 regarding permit applications identified in subsection (b) of
11 this Section, the Agency shall consider previous adjudications
12 of noncompliance with this Act and rules adopted thereunder by
13 the applicant. In granting permits, the Agency shall consider
14 whether to impose reasonable conditions specifically related
15 to the applicant's past compliance history with this Act and
16 rules adopted under this Act as necessary to correct, detect,
17 or prevent noncompliance. This may include consideration of:

18 (1) information contained within the U.S.
19 Environmental Protection Agency's and the Agency's
20 environmental compliance tracking system;

21 (2) information submitted in public comments to a
22 construction permit application pending review;

23 (3) judicial or administrative consent decrees or
24 compliance orders that are entered into, or issued by, the
25 U.S. Environmental Protection Agency involving
26 requirements of the Illinois State Implementation Plan;

1 and
2 (4) information relating to State-only compliance
3 history.

4 The Agency shall prepare a written analysis of its
5 evaluation of compliance enforcement history, as well as any
6 additional civil rights analysis or mitigation measures
7 undertaken. The analysis shall be prepared before a notice of
8 public comment or a hearing concerning a draft construction
9 permit and shall be posted among the documents available on
10 the Agency's public website. If no public participation is
11 provided for under Agency rules, the analysis shall be posted
12 to the Agency's public website at the time of permit issuance.

13 (i) The Agency may adopt any rules necessary to carry out
14 the purposes of this Section, including, but not limited to,
15 any rules necessary to specify how calculations of the
16 environmental indicators and their percentile ranks and
17 scores, socioeconomic indicators and their percentile ranks
18 and scores, and the environmental risk score are to be
19 performed, and any rules necessary to specify metrics to be
20 used to measure the environmental indicators and socioeconomic
21 indicators.

22 Section 10. The Environmental Justice Act is amended by
23 adding Section 15 as follows:

24 (415 ILCS 155/15 new)

1 Sec. 15. Office of Environmental Justice. An Office of
2 Environmental Justice is established within the Illinois
3 Environmental Protection Agency. The Office shall coordinate
4 the integration of environmental justice into Agency programs
5 and activities, oversee implementation of language access
6 policies, and provide enhanced public outreach to areas of
7 environmental justice concern as defined under Section 39.16
8 of the Environmental Protection Act. The Director shall
9 appoint an Environmental Justice Officer within the Office of
10 Environmental Justice to administer the Office.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.