

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) Legislative Findings. The General Assembly finds that:

10 (1) all residents of this State have a right to a
11 healthful environment under Article XI of the Illinois
12 Constitution of 1970;

13 (2) no community should bear disproportionate and
14 adverse effects from pollution;

15 (3) in 2024, the Agency entered in an Informal
16 Resolution Agreement with the United States Environmental
17 Protection Agency requiring, among other things,
18 enhancements to its permit review process for certain
19 permit transactions in areas of environmental justice
20 concern; and

21 (4) such enhancements to the Agency's permit review
22 process are necessary to avoid the imposition of
23 disproportionate and adverse effects to communities in

1 areas of environmental justice concern, as such areas are
2 identified herein.

3 The provisions of this Section shall be liberally
4 construed to carry out the purposes of this Section.

5 (b) Definitions. For purposes of this Section:

6 "Area of environmental justice concern" or "area of EJ
7 concern" means a geographical area, the population of which
8 potentially experiences disproportionate environmental harms
9 and risks as a result of both environmental and socioeconomic
10 conditions that may act cumulatively to affect health and the
11 environment and contribute to persistent environmental health
12 disparities. "Area of EJ concern" shall include all census
13 block groups, and all areas within one mile of such census
14 block groups, identified and updated by the Agency on a
15 triennial basis as being within the top 25% of census blocks
16 statewide, scored by multiplying each census block group's
17 average statewide percentile for each of the following
18 environmental indicators, by the census block group's average
19 statewide percentile for each of the following socioeconomic
20 indicators:

21 Environmental indicators:

22 (1) annual average concentration of particulate matter
23 less than 2.5 microns or smaller in diameter;

24 (2) annual average concentration of ozone;

25 (3) annual average concentration of nitrogen dioxide;

26 (4) annual average concentration of diesel particulate

1 matter;

2 (5) annual average toxicity-weighted concentrations of
3 Toxic Release Inventory-listed chemicals;

4 (6) vehicle traffic;

5 (7) drinking water violations that have not been
6 returned to compliance;

7 (8) percentage of housing units built pre-1960;

8 (9) number of proposed or listed National Priorities
9 List sites;

10 (10) number of facilities with Risk Management Plans;

11 (11) number of treatment, storage, and disposal and
12 large-quantity generator hazardous waste facilities;

13 (12) number of leaking underground storage tanks and
14 underground storage tanks; and

15 (13) toxics concentrations at stream segments.

16 Socioeconomic indicators - percentage of population:

17 (1) with household income less than or equal to twice
18 the federal poverty level;

19 (2) unemployed;

20 (3) living in limited English proficiency households;

21 (4) aged 25 or older whose education is short of a high
22 school diploma;

23 (5) under the age of 5; and

24 (6) over the age of 64.

25 Environmental indicators (7) through (13) are given half
26 the weight of environmental indicators (1) through (6) in

1 calculating the averaged percentile.

2 (c) Applicability. This Section applies to the following
3 permits for which an owner or operator applies on or after
4 January 1, 2027:

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

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

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

22 (d) Review of permit applications; notifications. Upon
23 receipt of an air pollution control construction permit
24 application, the Agency shall evaluate the application to:

25 (1) determine whether the source falls within an area
26 of EJ concern. Based on this review, the Agency shall send

1 an EJ notification letter to elected officials, community
2 groups, and individuals who have requested to be notified,
3 to provide information about the proposed project and how
4 an individual can request a public hearing on a permit
5 application;

6 (2) determine whether emissions increases from the
7 proposed project can be reduced or voluntarily limited by
8 the applicant to avoid or minimize potential air emission
9 increases to any affected area(s) of EJ concern. This
10 includes, but is not limited to, establishment of lower
11 thresholds for potential-to-emit, installation of
12 alternative pollution controls, and decreased utilization
13 of other units at the facility; and

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

20 (e) Permit enhancements.

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

26 (A) improved air monitoring systems, including

1 parametric and continuous monitoring systems;

2 (B) development of a fugitive dust operating
3 program/plan or enhancements to an existing
4 program/plan;

5 (C) operational requirements to establish limits
6 on potential-to-emit or to demonstrate source
7 compliance with an emission rate;

8 (D) increased use or frequency of emissions
9 testing;

10 (E) development of enforceable requirements to go
11 into the construction permit to assure that the source
12 meets modeling assumptions used in the air quality
13 modeling (including hours of operation, operating
14 requirements, operating schedule, meteorological
15 assumptions, property boundaries, etc.);

16 (F) development of an odor control plan to
17 identify and mitigate potential off-site odor impacts
18 from the project;

19 (G) development of odor monitoring of third-party
20 complaints, including a process for tracking
21 complaints and inspecting affected process operations
22 known to be capable of causing air pollution;

23 (H) discretionary use of prior adjudications of
24 violations of this Act and regulations adopted
25 thereunder by the applicant that involve a release of
26 a contaminant into the environment in evaluating the

1 permit application;

2 (I) discretionary use of reasonable conditions
3 specifically related to an applicant's past compliance
4 history with this Act and regulations adopted
5 thereunder as necessary to correct, detect, or prevent
6 noncompliance;

7 (J) use of pollution prevention techniques; or

8 (K) applicant outreach, independent of the permit
9 review process, with the affected community.

10 (2) The Agency may also conduct further analysis, as
11 needed, to inform its permit decision, including:

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

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

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

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

23 (E) factors that may increase community exposure
24 or vulnerability as compared to other populations; or

25 (F) consultation with the United States
26 Environmental Protection Agency or other state and

1 federal regulatory authorities regarding additional
2 areas of study.

3 (3) If the Agency's analysis described in this Section
4 shows disproportionate and adverse effects, the Agency
5 shall consider making additional refinements to the
6 project emissions analysis, air quality modeling, or
7 permit enhancements; prioritizing compliance inspections
8 and any resulting enforcement initiatives of an
9 applicant's existing permitted source or other
10 contributing sources to the affected area, with the aim of
11 reducing existing adverse impacts; prioritizing grant
12 funding for projects in the affected community; and
13 conducting consultations with the United States
14 Environmental Protection Agency or other state and federal
15 agencies relating to potential mitigation options,
16 including fence-line monitoring, risk assessments, or
17 rulemakings.

18 (f) Issuance of permits.

19 (1) In making its determination on permit applications
20 identified in Section 39.16(2) of this Act, the Agency
21 shall consider prior adjudications of noncompliance with
22 this Act and regulations adopted thereunder by the
23 applicant. In granting permits, the Agency shall consider
24 whether to impose reasonable conditions specifically
25 related to the applicant's past compliance history with
26 this Act and regulations adopted thereunder as necessary

1 to correct, detect, or prevent noncompliance. This may
2 include consideration of:

3 (A) information contained within USEPA's and the
4 Agency's environmental compliance tracking system;

5 (B) information submitted in public comments to a
6 construction permit application pending review;

7 (C) judicial or administrative consent decrees or
8 compliance orders that are entered into, or issued by,
9 USEPA involving requirements of the Illinois State
10 Implementation Plan; or

11 (D) information relating to State-only compliance
12 history.

13 (2) The Agency shall prepare a written analysis of its
14 evaluation of compliance enforcement history, as well as
15 any additional civil rights analysis or mitigation
16 measures undertaken. The analysis shall be prepared before
17 a notice of public comment or hearing concerning a draft
18 construction permit and must be posted among the documents
19 available on the Agency's public notice website or public
20 repository. If no public participation is provided for
21 under Agency rules, the analysis shall be posted to the
22 Agency's public notice webpage at the time of permit
23 issuance.

24 (g) Severability. If any provision of this Section or its
25 application to any person or circumstance is held invalid, the
26 invalidity of that provision or application does not affect

1 other provisions or applications of this Section that can be
2 given effect without the invalid provision or application.

3 Section 10. The Environmental Justice Act is amended by
4 adding Section 18 as follows:

5 (415 ILCS 155/18 new)

6 Sec. 18. Office of Environmental Justice. An Office of
7 Environmental Justice is established within the Illinois
8 Environmental Protection Agency. The Office shall coordinate
9 the integration of environmental justice into Agency programs
10 and activities, oversee implementation of language access
11 policies, and provide enhanced public outreach to areas of
12 environmental justice concern. The Director shall appoint an
13 Environmental Justice Officer within the Office of
14 Environmental Justice to administer the Office.

15 Section 97. Severability. If any provision of this
16 Amendatory Act of the 104th General Assembly or its
17 application to any person or circumstance is held invalid, the
18 invalidity of that provision or application does not affect
19 other provisions or applications of this Amendatory Act of the
20 104th General Assembly that can be given effect without the
21 invalid provision or application.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.