



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2906

Introduced 5/26/2021, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

See Index

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. Provides that a supplemental fee of \$200,000 for each construction permit application shall be assessed if the construction permit application is subject to the requirements regarding the construction of a new source located in an environmental justice community. Contains provisions regarding public participation requirements for permitting transactions in an environmental justice community. Provides that a third party may petition the Pollution Control Board if the Agency grants a permit to construct, modify, or operate a facility that emits air pollutants and is classified as a minor source. Contains provisions regarding environmental justice grievances. Defines "environmental justice community". Contains other provisions.

LRB102 18652 CPF 27036 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 9.12, 39, 39.2, and 40 and by adding
6 Sections 3.187, 3.281, 22.62, 34.5, 39.15, and 40.4 as
7 follows:

8 (415 ILCS 5/3.187 new)

9 Sec. 3.187. Environmental justice community.

10 "Environmental justice community" has the same meaning, based
11 on existing methodologies and findings, used in the Illinois
12 Solar for All Program, as may be updated by the Illinois Power
13 Agency and the Program Administrator of that Program.

14 (415 ILCS 5/3.281 new)

15 Sec. 3.281. Linguistic isolation. "Linguistic isolation"
16 means a household in which all members age 14 years and older
17 speak a non-English language and speak English less than very
18 well, according to the United States Census Bureau's latest
19 one-year or 5-year American Community Survey. A community
20 surrounding a facility is in linguistic isolation if 20% of
21 the households in the community's surrounding one-mile radius
22 meet the United States Census Bureau's definition for

1 linguistic isolation.

2 (415 ILCS 5/9.12)

3 Sec. 9.12. Construction permit fees for air pollution
4 sources.

5 (a) An applicant for a new or revised air pollution
6 construction permit shall pay a fee, as established in this
7 Section, to the Agency at the time that he or she submits the
8 application for a construction permit. Except as set forth
9 below, the fee for each activity or category listed in this
10 Section is separate and is cumulative with any other
11 applicable fee listed in this Section.

12 (b) The fee amounts in this subsection (b) apply to
13 construction permit applications relating to (i) a source
14 subject to Section 39.5 of this Act (the Clean Air Act Permit
15 Program); (ii) a source that, upon issuance of the requested
16 construction permit, will become a major source subject to
17 Section 39.5; or (iii) a source that has or will require a
18 federally enforceable State operating permit limiting its
19 potential to emit.

20 (1) Base fees for each construction permit application
21 shall be assessed as follows:

22 (A) If the construction permit application relates
23 to one or more new emission units or to a combination
24 of new and modified emission units, a fee of \$4,000 for
25 the first new emission unit and a fee of \$1,000 for

1 each additional new or modified emission unit;
2 provided that the total base fee under this
3 subdivision (A) shall not exceed \$10,000.

4 (B) If the construction permit application relates
5 to one or more modified emission units but not to any
6 new emission unit, a fee of \$2,000 for the first
7 modified emission unit and a fee of \$1,000 for each
8 additional modified emission unit; provided that the
9 total base fee under this subdivision (B) shall not
10 exceed \$5,000.

11 (2) Supplemental fees for each construction permit
12 application shall be assessed as follows:

13 (A) If, based on the construction permit
14 application, the source will be, but is not currently,
15 subject to Section 39.5 of this Act, a CAAPP entry fee
16 of \$5,000.

17 (B) If the construction permit application
18 involves (i) a new source or emission unit subject to
19 Section 39.2 of this Act, (ii) a commercial
20 incinerator or other municipal waste, hazardous waste,
21 or waste tire incinerator, (iii) a commercial power
22 generator, or (iv) one or more other emission units
23 designated as a complex source by Agency rulemaking, a
24 fee of \$25,000.

25 (C) If the construction permit application
26 involves an emissions netting exercise or reliance on

1 a contemporaneous emissions decrease for a pollutant
2 to avoid application of the PSD permit program or
3 nonattainment new source review, a fee of \$3,000 for
4 each such pollutant.

5 (D) If the construction permit application is for
6 a new major source subject to the PSD permit program, a
7 fee of \$12,000.

8 (E) If the construction permit application is for
9 a new major source subject to nonattainment new source
10 review, a fee of \$20,000.

11 (F) If the construction permit application is for
12 a major modification subject to the PSD permit
13 program, a fee of \$6,000.

14 (G) If the construction permit application is for
15 a major modification subject to nonattainment new
16 source review, a fee of \$12,000.

17 (H) (Blank).

18 (I) If the construction permit application review
19 involves a determination of the Maximum Achievable
20 Control Technology standard for a pollutant and the
21 project is not otherwise subject to BACT or LAER for a
22 related pollutant under the PSD permit program or
23 nonattainment new source review, a fee of \$5,000 per
24 unit for which a determination is requested or
25 otherwise required.

26 (J) (Blank).

1 (K) If the construction permit application is
2 subject to the requirements under subsection (z) or
3 subsection (aa) of Section 39, a fee of \$200,000.

4 (3) If a public hearing is held regarding the
5 construction permit application, an administrative fee of
6 \$10,000. This fee shall be submitted at the time the
7 applicant requests a public hearing or, if a public
8 hearing is not requested by the applicant, then within 30
9 days after the applicant is informed by the Agency that a
10 public hearing will be held.

11 (c) The fee amounts in this subsection (c) apply to
12 construction permit applications relating to a source that,
13 upon issuance of the construction permit, will not (i) be or
14 become subject to Section 39.5 of this Act (the Clean Air Act
15 Permit Program) or (ii) have or require a federally
16 enforceable state operating permit limiting its potential to
17 emit.

18 (1) Base fees for each construction permit application
19 shall be assessed as follows:

20 (A) For a construction permit application
21 involving a single new emission unit, a fee of \$500.

22 (B) For a construction permit application
23 involving more than one new emission unit, a fee of
24 \$1,000.

25 (C) For a construction permit application
26 involving no more than 2 modified emission units, a

1 fee of \$500.

2 (D) For a construction permit application
3 involving more than 2 modified emission units, a fee
4 of \$1,000.

5 (2) Supplemental fees for each construction permit
6 application shall be assessed as follows:

7 (A) If the source is a new source, i.e., does not
8 currently have an operating permit, an entry fee of
9 \$500;

10 (B) If the construction permit application
11 involves (i) a new source or emission unit subject to
12 Section 39.2 of this Act, (ii) a commercial
13 incinerator or a municipal waste, hazardous waste, or
14 waste tire incinerator, (iii) a commercial power
15 generator, or (iv) an emission unit designated as a
16 complex source by Agency rulemaking, a fee of \$15,000.

17 (3) If a public hearing is held regarding the
18 construction permit application, an administrative fee of
19 \$10,000. This fee shall be submitted at the time the
20 applicant requests a public hearing or, if a public
21 hearing is not requested by the applicant, then within 30
22 days after the applicant is informed by the Agency that a
23 public hearing will be held.

24 (d) If no other fee is applicable under this Section, a
25 construction permit application addressing one or more of the
26 following shall be subject to a filing fee of \$500:

1 (1) A construction permit application to add or
2 replace a control device on a permitted emission unit.

3 (2) A construction permit application to conduct a
4 pilot project or trial burn for a permitted emission unit.

5 (3) A construction permit application for a land
6 remediation project.

7 (4) (Blank).

8 (5) A construction permit application to revise an
9 emissions testing methodology or the timing of required
10 emissions testing.

11 (6) A construction permit application that provides
12 for a change in the name, address, or phone number of any
13 person identified in the permit, or for a change in the
14 stated ownership or control, or for a similar minor
15 administrative permit change at the source.

16 (e) No fee shall be assessed for a request to correct an
17 issued permit that involves only an Agency error, if the
18 request is received within the deadline for a permit appeal to
19 the Pollution Control Board.

20 (f) The applicant for a new or revised air pollution
21 construction permit shall submit to the Agency, with the
22 construction permit application, both a certification of the
23 fee that he or she estimates to be due under this Section and
24 the fee itself.

25 (g) Notwithstanding the requirements of subsection (a) of
26 Section 39 of this Act, the application for an air pollution

1 construction permit shall not be deemed to be filed with the
2 Agency until the Agency receives the initial air pollution
3 construction permit application fee and the certified estimate
4 of the fee required by this Section. Unless the Agency has
5 received the initial air pollution construction permit
6 application fee and the certified estimate of the fee required
7 by this Section, the Agency is not required to review or
8 process the application.

9 (h) If the Agency determines at any time that a
10 construction permit application is subject to an additional
11 fee under this Section that the applicant has not submitted,
12 the Agency shall notify the applicant in writing of the amount
13 due under this Section. The applicant shall have 60 days to
14 remit the assessed fee to the Agency.

15 If the proper fee established under this Section is not
16 submitted within 60 days after the request for further
17 remittance:

18 (1) If the construction permit has not yet been
19 issued, the Agency is not required to further review or
20 process, and the provisions of subsection (a) of Section
21 39 of this Act do not apply to, the application for a
22 construction permit until such time as the proper fee is
23 remitted.

24 (2) If the construction permit has been issued, the
25 Agency may, upon written notice, immediately revoke the
26 construction permit.

1 The denial or revocation of a construction permit does not
2 excuse the applicant from the duty of paying the fees required
3 under this Section.

4 (i) The Agency may deny the issuance of a pending air
5 pollution construction permit or the subsequent operating
6 permit if the applicant has not paid the required fees by the
7 date required for issuance of the permit. The denial or
8 revocation of a permit for failure to pay a construction
9 permit fee is subject to review by the Board pursuant to the
10 provisions of subsection (a) of Section 40 of this Act.

11 (j) If the owner or operator undertakes construction
12 without obtaining an air pollution construction permit, the
13 fee under this Section is still required. Payment of the
14 required fee does not preclude the Agency or the Attorney
15 General or other authorized persons from pursuing enforcement
16 against the applicant for failure to have an air pollution
17 construction permit prior to commencing construction.

18 (k) If an air pollution construction permittee makes a fee
19 payment under this Section from an account with insufficient
20 funds to cover the amount of the fee payment, the Agency shall
21 notify the permittee of the failure to pay the fee. If the
22 permittee fails to pay the fee within 60 days after such
23 notification, the Agency may, by written notice, immediately
24 revoke the air pollution construction permit. Failure of the
25 Agency to notify the permittee of the permittee's failure to
26 make payment does not excuse or alter the duty of the permittee

1 to comply with the provisions of this Section.

2 (l) The Agency may establish procedures for the collection
3 of air pollution construction permit fees.

4 (m) Fees collected pursuant to this Section shall be
5 deposited into the Environmental Protection Permit and
6 Inspection Fund.

7 (Source: P.A. 99-463, eff. 1-1-16.)

8 (415 ILCS 5/22.62 new)

9 Sec. 22.62. Environmental justice community designation.

10 (a) The Agency shall annually review and update the
11 underlying data for, and use of, indicators used to determine
12 whether a community is designated as an environmental justice
13 community under Section 3.187 for the sake of accuracy and to
14 comport with best practices as developed by relevant entities,
15 including, but not limited to: the United States Environmental
16 Protection Agency; State agencies, including the Department of
17 Public Health, the Illinois Housing Development Authority, the
18 State Board of Education, the Illinois Power Agency, the
19 Department of Agriculture, and the Department of Natural
20 Resources; municipalities and units of local government; and
21 the executive branches, agencies, municipalities, and units of
22 local government in other states.

23 (b) The Agency shall establish a process by which
24 communities not designated as environmental justice
25 communities may petition for such a designation.

1 (c) The Agency shall include representatives of State
2 environmental justice organizations, other State environmental
3 justice stakeholders, and the Commission on Environmental
4 Justice in the development of the processes required to be
5 established under this Section.

6 (415 ILCS 5/34.5 new)

7 Sec. 34.5. Environmentally beneficial project bank.

8 (a) The Agency shall establish and maintain on its website
9 a bank of potential environmentally beneficial projects. The
10 website must permit members of the public to submit
11 suggestions for environmentally beneficial projects. The
12 Agency shall assess the submissions for feasibility and
13 clarity before inclusion in the bank.

14 (b) A respondent or defendant may propose to undertake an
15 environmentally beneficial project that is not contained in
16 the environmentally beneficial project bank established under
17 subsection (a).

18 (c) If funds for an environmentally beneficial project are
19 derived from penalties resulting from an administrative,
20 civil, or criminal enforcement action arising from an alleged
21 violation by a facility, site, or activity in an environmental
22 justice community, the Agency must require that the funds be
23 utilized for an environmentally beneficial project in the
24 environmental justice community where the alleged violation
25 occurred.

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. The Agency shall adopt such
11 procedures as are necessary to carry out its duties under this
12 Section. In making its determinations on permit applications
13 under this Section the Agency shall ~~may~~ consider prior
14 administrative, civil, and criminal enforcement actions
15 alleging adjudications of noncompliance with this Act or a
16 local environmental ordinance, court order, consent order, or
17 compliance commitment agreement ~~by the applicant~~ that involved
18 a release of a contaminant into the environment by the
19 applicant. In granting permits, the Agency shall ~~may~~ impose
20 reasonable conditions specifically related to the applicant's
21 past compliance history with this Act and the local
22 environmental ordinance, court order, consent order, or
23 compliance commitment agreement as necessary to correct,
24 detect, or prevent noncompliance with this Act and to prevent
25 a similar release of contaminants into the environment. The

1 Agency shall ~~may~~ impose such other conditions as ~~may be~~
2 necessary to accomplish the purposes of this Act, and as are
3 not inconsistent with the regulations promulgated by the Board
4 hereunder. Except as otherwise provided in this Act, a bond or
5 other security shall not be required as a condition for the
6 issuance of a permit. If the Agency denies any permit under
7 this Section, the Agency shall transmit to the applicant
8 within the time limitations of this Section specific, detailed
9 statements as to the reasons the permit application was
10 denied. Such statements shall include, but not be limited to
11 the following:

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

14 (ii) the provision of the regulations, promulgated
15 under this Act, which may be violated if the permit were
16 granted;

17 (iii) the specific type of information, if any, which
18 the Agency deems the applicant did not provide the Agency;
19 and

20 (iv) a statement of specific reasons why the Act and
21 the regulations might not be met if the permit were
22 granted.

23 If there is no final action by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued; except that this time period shall
26 be extended to 180 days when (1) notice and opportunity for

1 public hearing are required by State or federal law or
2 regulation, (2) the application which was filed is for any
3 permit to develop a landfill subject to issuance pursuant to
4 this subsection, or (3) the application that was filed is for a
5 MSWLF unit required to issue public notice under subsection
6 (p) of Section 39. The 90-day and 180-day time periods for the
7 Agency to take final action do not apply to NPDES permit
8 applications under subsection (b) of this Section, to RCRA
9 permit applications under subsection (d) of this Section, to
10 UIC permit applications under subsection (e) of this Section,
11 or to CCR surface impoundment applications under subsection
12 (y) of this Section.

13 The Agency shall publish notice of all final permit
14 determinations for development permits for MSWLF units and for
15 significant permit modifications for lateral expansions for
16 existing MSWLF units one time in a newspaper of general
17 circulation in the county in which the unit is or is proposed
18 to be located.

19 After January 1, 1994 and until July 1, 1998, operating
20 permits issued under this Section by the Agency for sources of
21 air pollution permitted to emit less than 25 tons per year of
22 any combination of regulated air pollutants, as defined in
23 Section 39.5 of this Act, shall be required to be renewed only
24 upon written request by the Agency consistent with applicable
25 provisions of this Act and regulations promulgated hereunder.
26 Such operating permits shall expire 180 days after the date of

1 such a request. The Board shall revise its regulations for the
2 existing State air pollution operating permit program
3 consistent with this provision by January 1, 1994.

4 After June 30, 1998, operating permits issued under this
5 Section by the Agency for sources of air pollution that are not
6 subject to Section 39.5 of this Act and are not required to
7 have a federally enforceable State operating permit shall be
8 required to be renewed only upon written request by the Agency
9 consistent with applicable provisions of this Act and its
10 rules. Such operating permits shall expire 180 days after the
11 date of such a request. Before July 1, 1998, the Board shall
12 revise its rules for the existing State air pollution
13 operating permit program consistent with this paragraph and
14 shall adopt rules that require a source to demonstrate that it
15 qualifies for a permit under this paragraph.

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

21 All NPDES permits shall contain those terms and
22 conditions, including, but not limited to, schedules of
23 compliance, which may be required to accomplish the purposes
24 and provisions of this Act.

25 The Agency may issue general NPDES permits for discharges
26 from categories of point sources which are subject to the same

1 permit limitations and conditions. Such general permits may be
2 issued without individual applications and shall conform to
3 regulations promulgated under Section 402 of the Federal Water
4 Pollution Control Act, as now or hereafter amended.

5 The Agency may include, among such conditions, effluent
6 limitations and other requirements established under this Act,
7 Board regulations, the Federal Water Pollution Control Act, as
8 now or hereafter amended, and regulations pursuant thereto,
9 and schedules for achieving compliance therewith at the
10 earliest reasonable date.

11 The Agency shall adopt filing requirements and procedures
12 which are necessary and appropriate for the issuance of NPDES
13 permits, and which are consistent with the Act or regulations
14 adopted by the Board, and with the Federal Water Pollution
15 Control Act, as now or hereafter amended, and regulations
16 pursuant thereto.

17 The Agency, subject to any conditions which may be
18 prescribed by Board regulations, may issue NPDES permits to
19 allow discharges beyond deadlines established by this Act or
20 by regulations of the Board without the requirement of a
21 variance, subject to the Federal Water Pollution Control Act,
22 as now or hereafter amended, and regulations pursuant thereto.

23 (c) Except for those facilities owned or operated by
24 sanitary districts organized under the Metropolitan Water
25 Reclamation District Act, no permit for the development or
26 construction of a new pollution control facility may be

1 granted by the Agency unless the applicant submits proof to
2 the Agency that the location of the facility has been approved
3 by the county board ~~County Board~~ of the county if in an
4 unincorporated area, or the governing body of the municipality
5 when in an incorporated area, in which the pollution control
6 facility is to be located in accordance with Section 39.2 of
7 this Act. For purposes of this subsection (c), and for
8 purposes of Section 39.2 of this Act, the appropriate county
9 board or governing body of the municipality shall be the
10 county board of the county or the governing body of the
11 municipality in which the pollution control facility is to be
12 located as of the date when the application for siting
13 approval is filed.

14 In the event that siting approval granted pursuant to
15 Section 39.2 has been transferred to a subsequent owner or
16 operator, that subsequent owner or operator may apply to the
17 Agency for, and the Agency may grant, a development or
18 construction permit for the pollution control facility for
19 which local siting approval was granted. Upon application to
20 the Agency for a development or construction permit by that
21 subsequent owner or operator, the permit applicant shall cause
22 written notice of the permit application to be served upon the
23 appropriate county board or governing body of the municipality
24 that granted siting approval for that pollution control
25 facility and upon any party to the siting proceeding pursuant
26 to which siting approval was granted. In that event, the

1 Agency shall conduct an evaluation of the subsequent owner or
2 operator's prior experience in waste management operations in
3 the manner conducted under subsection (i) of Section 39 of
4 this Act.

5 Beginning August 20, 1993, if the pollution control
6 facility consists of a hazardous or solid waste disposal
7 facility for which the proposed site is located in an
8 unincorporated area of a county with a population of less than
9 100,000 and includes all or a portion of a parcel of land that
10 was, on April 1, 1993, adjacent to a municipality having a
11 population of less than 5,000, then the local siting review
12 required under this subsection (c) in conjunction with any
13 permit applied for after that date shall be performed by the
14 governing body of that adjacent municipality rather than the
15 county board of the county in which the proposed site is
16 located; and for the purposes of that local siting review, any
17 references in this Act to the county board shall be deemed to
18 mean the governing body of that adjacent municipality;
19 provided, however, that the provisions of this paragraph shall
20 not apply to any proposed site which was, on April 1, 1993,
21 owned in whole or in part by another municipality.

22 In the case of a pollution control facility for which a
23 development permit was issued before November 12, 1981, if an
24 operating permit has not been issued by the Agency prior to
25 August 31, 1989 for any portion of the pollution control
26 facility, then the Agency may not issue or renew any

1 development permit nor issue an original operating permit for
2 any portion of such pollution control facility unless the
3 applicant has submitted proof to the Agency that the location
4 of the pollution control facility has been approved by the
5 appropriate county board or municipal governing body pursuant
6 to Section 39.2 of this Act.

7 After January 1, 1994, if a solid waste disposal facility,
8 any portion for which an operating permit has been issued by
9 the Agency, has not accepted waste disposal for 5 or more
10 consecutive calendar ~~calendars~~ years, before that facility may
11 accept any new or additional waste for disposal, the owner and
12 operator must obtain a new operating permit under this Act for
13 that facility unless the owner and operator have applied to
14 the Agency for a permit authorizing the temporary suspension
15 of waste acceptance. The Agency may not issue a new operation
16 permit under this Act for the facility unless the applicant
17 has submitted proof to the Agency that the location of the
18 facility has been approved or re-approved by the appropriate
19 county board or municipal governing body under Section 39.2 of
20 this Act after the facility ceased accepting waste.

21 Except for those pollution control facilities owned or
22 operated by sanitary districts organized under the
23 Metropolitan Water Reclamation District Act, and except for
24 new pollution control facilities governed by Section 39.2, and
25 except for fossil fuel mining facilities, the granting of a
26 permit under this Act shall not relieve the applicant from

1 meeting and securing all necessary zoning approvals from the
2 unit of government having zoning jurisdiction over the
3 proposed facility.

4 Before beginning construction on any new sewage treatment
5 plant or sludge drying site to be owned or operated by a
6 sanitary district organized under the Metropolitan Water
7 Reclamation District Act for which a new permit (rather than
8 the renewal or amendment of an existing permit) is required,
9 such sanitary district shall hold a public hearing within the
10 municipality within which the proposed facility is to be
11 located, or within the nearest community if the proposed
12 facility is to be located within an unincorporated area, at
13 which information concerning the proposed facility shall be
14 made available to the public, and members of the public shall
15 be given the opportunity to express their views concerning the
16 proposed facility.

17 The Agency may issue a permit for a municipal waste
18 transfer station without requiring approval pursuant to
19 Section 39.2 provided that the following demonstration is
20 made:

21 (1) the municipal waste transfer station was in
22 existence on or before January 1, 1979 and was in
23 continuous operation from January 1, 1979 to January 1,
24 1993;

25 (2) the operator submitted a permit application to the
26 Agency to develop and operate the municipal waste transfer

1 station during April of 1994;

2 (3) the operator can demonstrate that the county board
3 of the county, if the municipal waste transfer station is
4 in an unincorporated area, or the governing body of the
5 municipality, if the station is in an incorporated area,
6 does not object to resumption of the operation of the
7 station; and

8 (4) the site has local zoning approval.

9 No permit for the development or construction of any of
10 the following will be granted by the Agency unless the
11 applicant submits proof to the Agency that the location of the
12 source has been approved by the county board of the county, if
13 in an unincorporated area, or the governing body of a
14 municipality, when in an incorporated area, in which the
15 source is to be located in accordance with Section 39.2: (i) a
16 new or modified source that, upon issuance of the requested
17 construction permit, will become a major source subject to
18 Section 39.5 to be located in an environmental justice
19 community; or (ii) a new source that has or will require a
20 federally enforceable State operating permit and that will be
21 located in an environmental justice community. For purposes of
22 this subsection (c), and for purposes of Section 39.2, the
23 appropriate county board or governing body of the municipality
24 shall be the county board of the county or the governing body
25 of the municipality in which the source is to be located as of
26 the date when the application for siting approval is filed.

1 This provision does not apply to permits for modifications or
2 expansions at existing FESOP or CAAPP sources unless the
3 modification will result in an increase in the hourly rate of
4 emissions or the total annual emissions of any air pollutant.

5 (d) The Agency may issue RCRA permits exclusively under
6 this subsection to persons owning or operating a facility for
7 the treatment, storage, or disposal of hazardous waste as
8 defined under this Act. Subsection (y) of this Section, rather
9 than this subsection (d), shall apply to permits issued for
10 CCR surface impoundments.

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

22 In the case of a permit to operate a hazardous waste or PCB
23 incinerator as defined in subsection (k) of Section 44, the
24 Agency shall require, as a condition of the permit, that the
25 operator of the facility perform such analyses of the waste to
26 be incinerated as may be necessary and appropriate to ensure

1 the safe operation of the incinerator.

2 The Agency shall adopt filing requirements and procedures
3 which are necessary and appropriate for the issuance of RCRA
4 permits, and which are consistent with the Act or regulations
5 adopted by the Board, and with the Resource Conservation and
6 Recovery Act of 1976 (P.L. 94-580), as amended, and
7 regulations pursuant thereto.

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

17 (e) The Agency may issue UIC permits exclusively under
18 this subsection to persons owning or operating a facility for
19 the underground injection of contaminants as defined under
20 this Act.

21 All UIC permits shall contain those terms and conditions,
22 including, but not limited to, schedules of compliance, which
23 may be required to accomplish the purposes and provisions of
24 this Act. The Agency may include among such conditions
25 standards and other requirements established under this Act,
26 Board regulations, the Safe Drinking Water Act (P.L. 93-523),

1 as amended, and regulations pursuant thereto, and may include
2 schedules for achieving compliance therewith. The Agency shall
3 require that a performance bond or other security be provided
4 as a condition for the issuance of a UIC permit.

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

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

19 (f) In making any determination pursuant to Section 9.1 of
20 this Act:

21 (1) The Agency shall have authority to make the
22 determination of any question required to be determined by
23 the Clean Air Act, as now or hereafter amended, this Act,
24 or the regulations of the Board, including the
25 determination of the Lowest Achievable Emission Rate,
26 Maximum Achievable Control Technology, or Best Available

1 Control Technology, consistent with the Board's
2 regulations, if any.

3 (2) The Agency shall adopt requirements as necessary
4 to implement public participation procedures, including,
5 but not limited to, public notice, comment, and an
6 opportunity for hearing, which must accompany the
7 processing of applications for PSD permits. The Agency
8 shall briefly describe and respond to all significant
9 comments on the draft permit raised during the public
10 comment period or during any hearing. The Agency may group
11 related comments together and provide one unified response
12 for each issue raised.

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

17 (4) The Agency shall, after conferring with the
18 applicant, give written notice to the applicant of its
19 proposed decision on the application, including the terms
20 and conditions of the permit to be issued and the facts,
21 conduct, or other basis upon which the Agency will rely to
22 support its proposed action.

23 (g) The Agency shall include as conditions upon all
24 permits issued for hazardous waste disposal sites such
25 restrictions upon the future use of such sites as are
26 reasonably necessary to protect public health and the

1 environment, including permanent prohibition of the use of
2 such sites for purposes which may create an unreasonable risk
3 of injury to human health or to the environment. After
4 administrative and judicial challenges to such restrictions
5 have been exhausted, the Agency shall file such restrictions
6 of record in the Office of the Recorder of the county in which
7 the hazardous waste disposal site is located.

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

1 the term "generator" has the meaning given in Section 3.205 of
2 this Act, unless: (1) the hazardous waste is treated,
3 incinerated, or partially recycled for reuse prior to
4 disposal, in which case the last person who treats,
5 incinerates, or partially recycles the hazardous waste prior
6 to disposal is the generator; or (2) the hazardous waste is
7 from a response action, in which case the person performing
8 the response action is the generator. This subsection (h) does
9 not apply to any hazardous waste that is restricted from land
10 disposal under 35 Ill. Adm. Code 728.

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

25 (1) repeated violations of federal, State, or local
26 laws, regulations, standards, or ordinances in the

1 operation of waste management facilities or sites, clean
2 construction or demolition debris fill operation
3 facilities or sites, or tire storage sites; or

4 (2) conviction in this or another State of any crime
5 which is a felony under the laws of this State, or
6 conviction of a felony in a federal court; or conviction
7 in this or another state or federal court of any of the
8 following crimes: forgery, official misconduct, bribery,
9 perjury, or knowingly submitting false information under
10 any environmental law, regulation, or permit term or
11 condition; or

12 (3) proof of gross carelessness or incompetence in
13 handling, storing, processing, transporting or disposing
14 of waste, clean construction or demolition debris, or used
15 or waste tires, or proof of gross carelessness or
16 incompetence in using clean construction or demolition
17 debris as fill.

18 (i-5) Before issuing any permit or approving any interim
19 authorization for a clean construction or demolition debris
20 fill operation in which any ownership interest is transferred
21 between January 1, 2005, and the effective date of the
22 prohibition set forth in Section 22.52 of this Act, the Agency
23 shall conduct an evaluation of the operation if any previous
24 activities at the site or facility may have caused or allowed
25 contamination of the site. It shall be the responsibility of
26 the owner or operator seeking the permit or interim

1 authorization to provide to the Agency all of the information
2 necessary for the Agency to conduct its evaluation. The Agency
3 may deny a permit or interim authorization if previous
4 activities at the site may have caused or allowed
5 contamination at the site, unless such contamination is
6 authorized under any permit issued by the Agency.

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

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

24 (l) No permit shall be issued by the Agency under this Act
25 for construction or operation of any facility or site located
26 within the boundaries of any setback zone established pursuant

1 to this Act, where such construction or operation is
2 prohibited.

3 (m) The Agency may issue permits to persons owning or
4 operating a facility for composting landscape waste. In
5 granting such permits, the Agency may impose such conditions
6 as may be necessary to accomplish the purposes of this Act, and
7 as are not inconsistent with applicable regulations
8 promulgated by the Board. Except as otherwise provided in this
9 Act, a bond or other security shall not be required as a
10 condition for the issuance of a permit. If the Agency denies
11 any permit pursuant to this subsection, the Agency shall
12 transmit to the applicant within the time limitations of this
13 subsection specific, detailed statements as to the reasons the
14 permit application was denied. Such statements shall include
15 but not be limited to the following:

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

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

20 (3) the specific information, if any, the Agency deems
21 the applicant did not provide in its application to the
22 Agency; and

23 (4) a statement of specific reasons why the Act and
24 the regulations might be violated if the permit were
25 granted.

26 If no final action is taken by the Agency within 90 days

1 after the filing of the application for permit, the applicant
2 may deem the permit issued. Any applicant for a permit may
3 waive the 90-day limitation by filing a written statement with
4 the Agency.

5 The Agency shall issue permits for such facilities upon
6 receipt of an application that includes a legal description of
7 the site, a topographic map of the site drawn to the scale of
8 200 feet to the inch or larger, a description of the operation,
9 including the area served, an estimate of the volume of
10 materials to be processed, and documentation that:

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

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

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

23 (4) the design of the facility will prevent any
24 compost material from being placed within 5 feet of the
25 water table, will adequately control runoff from the site,
26 and will collect and manage any leachate that is generated

1 on the site;

2 (5) the operation of the facility will include
3 appropriate dust and odor control measures, limitations on
4 operating hours, appropriate noise control measures for
5 shredding, chipping and similar equipment, management
6 procedures for composting, containment and disposal of
7 non-compostable wastes, procedures to be used for
8 terminating operations at the site, and recordkeeping
9 sufficient to document the amount of materials received,
10 composted and otherwise disposed of; and

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

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

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

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

26 (o) (Blank.)

1 (p) (1) Any person submitting an application for a permit
2 for a new MSWLF unit or for a lateral expansion under
3 subsection (t) of Section 21 of this Act for an existing MSWLF
4 unit that has not received and is not subject to local siting
5 approval under Section 39.2 of this Act shall publish notice
6 of the application in a newspaper of general circulation in
7 the county in which the MSWLF unit is or is proposed to be
8 located. The notice must be published at least 15 days before
9 submission of the permit application to the Agency. The notice
10 shall state the name and address of the applicant, the
11 location of the MSWLF unit or proposed MSWLF unit, the nature
12 and size of the MSWLF unit or proposed MSWLF unit, the nature
13 of the activity proposed, the probable life of the proposed
14 activity, the date the permit application will be submitted,
15 and a statement that persons may file written comments with
16 the Agency concerning the permit application within 30 days
17 after the filing of the permit application unless the time
18 period to submit comments is extended by the Agency.

19 When a permit applicant submits information to the Agency
20 to supplement a permit application being reviewed by the
21 Agency, the applicant shall not be required to reissue the
22 notice under this subsection.

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

1 (3) Each applicant for a permit described in part (1) of
2 this subsection shall file a copy of the permit application
3 with the county board or governing body of the municipality in
4 which the MSWLF unit is or is proposed to be located at the
5 same time the application is submitted to the Agency. The
6 permit application filed with the county board or governing
7 body of the municipality shall include all documents submitted
8 to or to be submitted to the Agency, except trade secrets as
9 determined under Section 7.1 of this Act. The permit
10 application and other documents on file with the county board
11 or governing body of the municipality shall be made available
12 for public inspection during regular business hours at the
13 office of the county board or the governing body of the
14 municipality and may be copied upon payment of the actual cost
15 of reproduction.

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

23 (1) Checklists and guidance relating to the completion
24 of permit applications, developed pursuant to subsection
25 (s) of this Section, which may include, but are not
26 limited to, existing instructions for completing the

1 applications and examples of complete applications. As the
2 Agency develops new checklists and develops guidance, it
3 shall supplement the web portal with those materials.

4 (2) Within 2 years after July 12, 2011 (the effective
5 date of Public Act 97-95), permit application forms or
6 portions of permit applications that can be completed and
7 saved electronically, and submitted to the Agency
8 electronically with digital signatures.

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

24 (A) the number of applications received for each
25 type of permit, the number of applications on which
26 the Agency has taken action, and the number of

1 applications still pending; and

2 (B) for those applications where the Agency has
3 not taken action in accordance with the timeframes set
4 forth in this Act, the date the application was
5 received and the reasons for any delays, which may
6 include, but shall not be limited to, (i) the
7 application being inadequate or incomplete, (ii)
8 scientific or technical disagreements with the
9 applicant, USEPA, or other local, state, or federal
10 agencies involved in the permitting approval process,
11 (iii) public opposition to the permit, or (iv) Agency
12 staffing shortages. To the extent practicable, the
13 tracking report shall provide approximate dates when
14 cause for delay was identified by the Agency, when the
15 Agency informed the applicant of the problem leading
16 to the delay, and when the applicant remedied the
17 reason for the delay.

18 (r) Upon the request of the applicant, the Agency shall
19 notify the applicant of the permit analyst assigned to the
20 application upon its receipt.

21 (s) The Agency is authorized to prepare and distribute
22 guidance documents relating to its administration of this
23 Section and procedural rules implementing this Section.
24 Guidance documents prepared under this subsection shall not be
25 considered rules and shall not be subject to the Illinois
26 Administrative Procedure Act. Such guidance shall not be

1 binding on any party.

2 (t) Except as otherwise prohibited by federal law or
3 regulation, any person submitting an application for a permit
4 may include with the application suggested permit language for
5 Agency consideration. The Agency is not obligated to use the
6 suggested language or any portion thereof in its permitting
7 decision. If requested by the permit applicant, the Agency
8 shall meet with the applicant to discuss the suggested
9 language.

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

13 (v) If requested by the permit applicant, the Agency shall
14 provide the permit applicant with a copy of the final permit
15 prior to its issuance.

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

19 (x) If, before the expiration of a State operating permit
20 that is issued pursuant to subsection (a) of this Section and
21 contains federally enforceable conditions limiting the
22 potential to emit of the source to a level below the major
23 source threshold for that source so as to exclude the source
24 from the Clean Air Act Permit Program, the Agency receives a
25 complete application for the renewal of that permit, then all
26 of the terms and conditions of the permit shall remain in

1 effect until final administrative action has been taken on the
2 application for the renewal of the permit.

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

6 All CCR surface impoundment permits shall contain those
7 terms and conditions, including, but not limited to, schedules
8 of compliance, which may be required to accomplish the
9 purposes and provisions of this Act, Board regulations, the
10 Illinois Groundwater Protection Act and regulations pursuant
11 thereto, and the Resource Conservation and Recovery Act and
12 regulations pursuant thereto, and may include schedules for
13 achieving compliance therewith as soon as possible.

14 The Board shall adopt filing requirements and procedures
15 that are necessary and appropriate for the issuance of CCR
16 surface impoundment permits and that are consistent with this
17 Act or regulations adopted by the Board, and with the RCRA, as
18 amended, and regulations pursuant thereto.

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

1 business hours of the local office.

2 The Agency shall issue a written statement concurrent with
3 its grant or denial of the permit explaining the basis for its
4 decision.

5 (z) An applicant for a permit for the construction of a new
6 source that will become a major source subject to the Clean Air
7 Act Permit Program under Section 39.5 to be located in an
8 environmental justice community or a new source that has or
9 will require a federally enforceable State operating permit
10 and that will be located in an environmental justice community
11 must conduct a public meeting prior to submission of the
12 permit application and must submit with the permit application
13 an environmental justice assessment identifying the potential
14 environmental and health impacts according to subsection (aa)
15 to the area associated with the proposed project. This
16 subsection (z) also applies to permit applications for
17 modifications or expansions to existing sources that will
18 result in an increase in the hourly rate of emissions or the
19 total annual emissions of any air pollutant.

20 Prior to submitting the permit application to the Agency
21 and subsequent to obtaining local siting approval under
22 Section 39.2, the applicant is required to conduct a public
23 meeting within the environmental justice community where the
24 proposed source is to be located and to collect public
25 comments. Notice of the public meeting must be provided 30
26 days in advance and according to the following:

1 (1) The notice shall be:

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

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

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

15 (D) published in a newspaper of general
16 circulation; and

17 (E) posted on a website of the applicant with a
18 link provided to the Agency for posting on the
19 Agency's website.

20 (2) The notice of the public meeting shall include the
21 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 anticipated potential to emit and

1 allowable emissions for regulated pollutants of the
2 proposed source.

3 (D) The date, time, and location of the public
4 meeting.

5 (E) The deadline for submission of written
6 comments.

7 (F) The mailing address or email address where
8 written comments can be submitted.

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

12 (3) For a community determined to be in linguistic
13 isolation, the applicant shall provide the public notice
14 in a multi-lingual format appropriate to the needs of the
15 linguistically isolated community and provide oral and
16 written translation services at public meeting.

17 The applicant shall present a summary of the environmental
18 justice assessment required under subsection (aa) at the
19 public meeting.

20 The applicant must accept written public comments from the
21 date public notice is provided through at least 30 days
22 following the public meeting.

23 The applicant must provide with its permit application a
24 copy of the notice and a certification, subject to penalty of
25 law, signed by a responsible official for the permit applicant
26 attesting to the fact that a public meeting was held, the

1 information that was provided by the applicant and the permit
2 applicant collected written and transcribed oral public
3 comments collected by the applicant in accordance with the
4 requirements of this subsection (z).

5 The failure of the applicant to comply with the express
6 procedural requirements under this subsection (z) will result
7 in a denial of the subsequent permit application by the
8 Agency.

9 The Agency may propose and the Board may adopt rules
10 regarding the implementation of this subsection (z).

11 (aa) The permit application under subsection (z) shall
12 include an environmental justice assessment. The environmental
13 justice assessment shall consist of the following:

14 (1) Air dispersion modeling examining the air
15 quality-related impacts from the proposed project in
16 combination with existing mobile and stationary air
17 emitting sources to determine estimated emissions of the
18 following pollutants:

19 (A) Emissions of PM10 or PM2.5 that will be equal
20 to or greater than 25 tons per year.

21 (B) Emissions of ozone precursors that will be
22 equal to or greater than 25 tons per year.

23 (C) Emissions of any individual Hazardous Air
24 Pollutant listed in subsection (b) of Section 112 of
25 the federal Clean Air Act that will be equal to or
26 greater than 10 tons per year.

1 (D) Emissions of diesel exhaust constituents from
2 nonroad and on road mobile sources as well as
3 stationary sources.

4 The air dispersion modeling must address emissions
5 associated with a new or modified CAAPP source as well as
6 emissions from any existing source that will comprise part
7 of a single stationary source with the new or modified
8 CAAPP source under the requirements of Section 39.5.

9 If the air dispersion modeling reveals estimated
10 off-site impacts from the proposed project of a
11 significant nature, including any anticipated exceedance
12 of a legally enforceable emissions standard, the applicant
13 shall also identify efforts that will be undertaken by the
14 applicant during the construction or operation of the new
15 source to mitigate such impacts.

16 (2) A modeling protocol submitted to the Agency for
17 review and consideration prior to performance of the air
18 dispersion modeling. The modeling protocol shall include
19 analyses sufficient to evaluate short-term impacts to air
20 quality and impacts to air quality from nonstandard
21 operating conditions, such as worst case emission
22 estimates under a variety of weather and atmospheric
23 conditions and emissions associated with startup,
24 shutdown, maintenance, and outages. Any Agency
25 recommendations for revisions to the modeling protocol
26 shall be provided in writing to the applicant within 60

1 days after receipt of the modeling protocol. The modeling
2 shall be performed using accepted USEPA methodologies.

3 (3) An environmental impact review evaluating the
4 direct, indirect, and cumulative environmental impacts to
5 the environmental justice community that are associated
6 with the proposed project. The environmental impact review
7 may be modeled after USEPA guidance documents for
8 fulfilling responsibilities under the federal National
9 Environmental Policy Act. The environmental impact review
10 shall include, but shall not be limited to, the following:

11 (A) A qualitative and quantitative assessment of
12 emissions-related impacts to the area from the
13 project, including identifying the maximum allowable
14 emissions of criteria pollutants and hazardous air
15 pollutant emissions to be anticipated from the
16 proposed new source.

17 (B) An assessment of the health-based indicators
18 for inhalation exposure, including, but not limited
19 to, impacts to the respiratory, hematological,
20 neurological, cardiovascular, renal, and hepatic
21 systems and cancer rates.

22 The environmental justice assessment must be completed by
23 an independent third party.

24 If the environmental justice assessment shows that the
25 proposed project will cause harm to the environment or public
26 health, the Agency shall impose conditions in the permit that

1 will mitigate such harm or deny the permit if such harm is
2 unavoidable and causes or contributes to disproportionate
3 harm.

4 The Agency may propose and the Board may adopt rules
5 regarding the implementation of this subsection.

6 (Source: P.A. 101-171, eff. 7-30-19; revised 9-12-19.)

7 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

8 Sec. 39.2. Local siting review.

9 (a) The county board of the county or the governing body of
10 the municipality, as determined by paragraph (c) of Section 39
11 of this Act, shall, subject to review, approve or disapprove
12 the request for local siting approval for the following: (i)
13 each pollution control facility; (ii) an air pollution source
14 that, upon issuance of the requested construction permit, will
15 become a major source subject to Section 39.5 to be located in
16 an environmental justice community; or (iii) an air pollution
17 source that will require for the first time a federally
18 enforceable State operating permit and that shall be located
19 in an environmental justice community ~~which is subject to such~~
20 ~~review~~. An applicant for local siting approval shall submit
21 sufficient details describing the proposed facility and
22 evidence to demonstrate compliance, and local siting approval
23 shall be granted only if the proposed facility meets the
24 following criteria:

25 (i) the pollution control facility is necessary to

1 accommodate the waste needs of the area it is intended to
2 serve;

3 (ii) the pollution control facility or air pollution
4 source is so designed, located, and proposed to be
5 operated that the public health, safety, and welfare will
6 be protected;

7 (iii) the pollution control facility or air pollution
8 source is located so as to minimize incompatibility with
9 the character of the surrounding area and to minimize the
10 effect on the value of the surrounding property;

11 (iv) (A) for a pollution control facility other than a
12 sanitary landfill or waste disposal site, the pollution
13 control facility is located outside the boundary of the
14 100-year ~~100-year~~ flood plain or the site is
15 flood-proofed; (B) for a pollution control facility that
16 is a sanitary landfill or waste disposal site, the
17 pollution control facility is located outside the boundary
18 of the 100-year floodplain, or if the pollution control
19 facility is a facility described in subsection (b)(3) of
20 Section 22.19a, the site is flood-proofed;

21 (v) the plan of operations for the or air pollution
22 source facility or air pollution source is designed to
23 minimize the danger to the surrounding area from fire,
24 spills, or other operational accidents;

25 (vi) the traffic patterns to or from the pollution
26 control facility or air pollution source are so designed

1 as to minimize the impact on existing traffic flows;

2 (vii) if the pollution control facility will be
3 treating, storing, or disposing of hazardous waste, an
4 emergency response plan exists for the facility which
5 includes notification, containment, and evacuation
6 procedures to be used in case of an accidental release;

7 (viii) if the pollution control facility is to be
8 located in a county where the county board has adopted a
9 solid waste management plan consistent with the planning
10 requirements of the Local Solid Waste Disposal Act or the
11 Solid Waste Planning and Recycling Act, the pollution
12 control facility is consistent with that plan; for
13 purposes of this criterion (viii), the "solid waste
14 management plan" means the plan that is in effect as of the
15 date the application for siting approval is filed; and

16 (ix) if the pollution control facility will be located
17 within a regulated recharge area, any applicable
18 requirements specified by the Board for such areas have
19 been met.

20 The county board or the governing body of the municipality
21 may also consider as evidence the previous operating
22 experience and past record of convictions or admissions of
23 violations of the pollution control facility applicant (and
24 any subsidiary or parent corporation) in the field of solid
25 waste management when considering criteria (ii) and (v) under
26 this Section.

1 If the pollution control facility is subject to the
2 location restrictions in Section 22.14 of this Act, compliance
3 with that Section shall be determined as of the date the
4 application for siting approval is filed.

5 (b) No later than 14 days before the date on which the
6 county board or governing body of the municipality receives a
7 request for site approval, the applicant shall cause written
8 notice of such request to be served either in person or by
9 registered mail, return receipt requested, on the owners of
10 all property within the subject area not solely owned by the
11 applicant, and on the owners of all property within 250 feet in
12 each direction of the lot line of the subject property, said
13 owners being such persons or entities which appear from the
14 authentic tax records of the county ~~County~~ in which such
15 pollution control facility or air pollution source is to be
16 located; provided, that the number of all feet occupied by all
17 public roads, streets, alleys, and other public ways shall be
18 excluded in computing the 250 feet requirement; provided
19 further, that in no event shall this requirement exceed 400
20 feet, including public streets, alleys, and other public ways.

21 Such written notice shall also be served upon members of
22 the General Assembly from the legislative district in which
23 the proposed pollution control facility or air pollution
24 source is located and shall be published in a newspaper of
25 general circulation published in the county in which the site
26 is located.

1 Such notice shall state the name and address of the
2 applicant, the location of the proposed site, the nature and
3 size of the development, the nature of the activity proposed,
4 the probable life of the proposed activity, the date when the
5 request for site approval will be submitted, and a description
6 of the right of persons to comment on such request as hereafter
7 provided.

8 (c) An applicant shall file a copy of its request with the
9 county board of the county or the governing body of the
10 municipality in which the proposed site is located. The
11 request shall include (i) the substance of the applicant's
12 proposal and (ii) all documents, if any, submitted as of that
13 date to the Agency pertaining to the proposed pollution
14 control facility or air pollution source, except trade secrets
15 as determined under Section 7.1 of this Act. All such
16 documents or other materials on file with the county board or
17 governing body of the municipality shall be made available for
18 public inspection at the office of the county board or the
19 governing body of the municipality and may be copied upon
20 payment of the actual cost of reproduction.

21 Any person may file written comment with the county board
22 or governing body of the municipality concerning the
23 appropriateness of the proposed site for its intended purpose.
24 The county board or governing body of the municipality shall
25 consider any comment received or postmarked not later than 30
26 days after the date of the last public hearing.

1 (d) At least one public hearing, at which an applicant
2 shall present at least one witness to testify subject to
3 cross-examination, is to be held by the county board or
4 governing body of the municipality no sooner than 90 days but
5 no later than 120 days after the date on which it received the
6 request for site approval. No later than 14 days prior to such
7 hearing, notice shall be published in a newspaper of general
8 circulation published in the county of the proposed site, and
9 delivered by certified mail to all members of the General
10 Assembly from the district in which the proposed site is
11 located, to the governing authority of every municipality
12 contiguous to the proposed site or contiguous to the
13 municipality in which the proposed site is to be located, to
14 the county board of the county where the proposed site is to be
15 located, if the proposed site is located within the boundaries
16 of a municipality, and to the Agency. Members or
17 representatives of the governing authority of a municipality
18 contiguous to the proposed site or contiguous to the
19 municipality in which the proposed site is to be located and,
20 if the proposed site is located in a municipality, members or
21 representatives of the county board of a county in which the
22 proposed site is to be located may appear at and participate in
23 public hearings held pursuant to this Section. The public
24 hearing shall develop a record sufficient to form the basis of
25 appeal of the decision in accordance with Section 40.1 of this
26 Act. The fact that a member of the county board or governing

1 body of the municipality has publicly expressed an opinion on
2 an issue related to a site review proceeding shall not
3 preclude the member from taking part in the proceeding and
4 voting on the issue.

5 (e) Decisions of the county board or governing body of the
6 municipality are to be in writing, confirming a public hearing
7 was held with testimony from at least one witness presented by
8 the applicant, specifying the reasons for the decision, such
9 reasons to be in conformance with subsection (a) of this
10 Section. In granting approval for a site the county board or
11 governing body of the municipality may impose such conditions
12 as may be reasonable and necessary to accomplish the purposes
13 of this Section and as are not inconsistent with regulations
14 promulgated by the Board. Such decision shall be available for
15 public inspection at the office of the county board or
16 governing body of the municipality and may be copied upon
17 payment of the actual cost of reproduction. If there is no
18 final action by the county board or governing body of the
19 municipality within 180 days after the date on which it
20 received the request for site approval, the applicant may deem
21 the request approved.

22 At the public hearing, at any time prior to completion by
23 the applicant of the presentation of the applicant's factual
24 evidence, testimony, and an opportunity for cross-examination
25 by the county board or governing body of the municipality and
26 any participants, the applicant may file not more than one

1 amended application upon payment of additional fees pursuant
2 to subsection (k); in which case the time limitation for final
3 action set forth in this subsection (e) shall be extended for
4 an additional period of 90 days.

5 If, prior to making a final local siting decision, a
6 county board or governing body of a municipality has
7 negotiated and entered into a host agreement with the local
8 siting applicant, the terms and conditions of the host
9 agreement, whether written or oral, shall be disclosed and
10 made a part of the hearing record for that local siting
11 proceeding. In the case of an oral agreement, the disclosure
12 shall be made in the form of a written summary jointly prepared
13 and submitted by the county board or governing body of the
14 municipality and the siting applicant and shall describe the
15 terms and conditions of the oral agreement.

16 (e-5) Siting approval obtained pursuant to this Section is
17 transferable and may be transferred to a subsequent owner or
18 operator. In the event that siting approval has been
19 transferred to a subsequent owner or operator, that subsequent
20 owner or operator assumes and takes subject to any and all
21 conditions imposed upon the prior owner or operator by the
22 county board of the county or governing body of the
23 municipality pursuant to subsection (e). However, any such
24 conditions imposed pursuant to this Section may be modified by
25 agreement between the subsequent owner or operator and the
26 appropriate county board or governing body. Further, in the

1 event that siting approval obtained pursuant to this Section
2 has been transferred to a subsequent owner or operator, that
3 subsequent owner or operator assumes all rights and
4 obligations and takes the facility subject to any and all
5 terms and conditions of any existing host agreement between
6 the prior owner or operator and the appropriate county board
7 or governing body.

8 (f) A local siting approval granted under this Section
9 shall expire at the end of 2 calendar years from the date upon
10 which it was granted, unless the local siting approval granted
11 under this Section is for a sanitary landfill operation, in
12 which case the approval shall expire at the end of 3 calendar
13 years from the date upon which it was granted, and unless
14 within that period the applicant has made application to the
15 Agency for a permit to develop the site. In the event that the
16 local siting decision has been appealed, such expiration
17 period shall be deemed to begin on the date upon which the
18 appeal process is concluded.

19 Except as otherwise provided in this subsection, upon the
20 expiration of a development permit under subsection (k) of
21 Section 39, any associated local siting approval granted for
22 the facility under this Section shall also expire.

23 If a first development permit for a municipal waste
24 incineration facility expires under subsection (k) of Section
25 39 after September 30, 1989 due to circumstances beyond the
26 control of the applicant, any associated local siting approval

1 granted for the facility under this Section may be used to
2 fulfill the local siting approval requirement upon application
3 for a second development permit for the same site, provided
4 that the proposal in the new application is materially the
5 same, with respect to the criteria in subsection (a) of this
6 Section, as the proposal that received the original siting
7 approval, and application for the second development permit is
8 made before January 1, 1990.

9 (g) The siting approval procedures, criteria and appeal
10 procedures provided for in this Act for new pollution control
11 facilities shall be the exclusive siting procedures and rules
12 and appeal procedures for facilities subject to such
13 procedures. Local zoning or other local land use requirements
14 shall not be applicable to such siting decisions.

15 (h) Nothing in this Section shall apply to any existing or
16 new pollution control facility located within the corporate
17 limits of a municipality with a population of over 1,000,000.

18 (i) (Blank.)

19 The Board shall adopt regulations establishing the
20 geologic and hydrologic siting criteria necessary to protect
21 usable groundwater resources which are to be followed by the
22 Agency in its review of permit applications for new pollution
23 control facilities. Such regulations, insofar as they apply to
24 new pollution control facilities authorized to store, treat or
25 dispose of any hazardous waste, shall be at least as stringent
26 as the requirements of the Resource Conservation and Recovery

1 Act and any State or federal regulations adopted pursuant
2 thereto.

3 (j) Any new pollution control facility which has never
4 obtained local siting approval under the provisions of this
5 Section shall be required to obtain such approval after a
6 final decision on an appeal of a permit denial.

7 (k) A county board or governing body of a municipality may
8 charge applicants for siting review under this Section a
9 reasonable fee to cover the reasonable and necessary costs
10 incurred by such county or municipality in the siting review
11 process.

12 (l) The governing Authority as determined by subsection
13 (c) of Section 39 of this Act may request the Department of
14 Transportation to perform traffic impact studies of proposed
15 or potential locations for required pollution control
16 facilities.

17 (m) An applicant may not file a request for local siting
18 approval which is substantially the same as a request which
19 was disapproved pursuant to a finding against the applicant
20 under any of criteria (i) through (ix) of subsection (a) of
21 this Section within the preceding 2 years.

22 (n) In any review proceeding of a decision of the county
23 board or governing body of a municipality made pursuant to the
24 local siting review process, the petitioner in the review
25 proceeding shall pay to the county or municipality the cost of
26 preparing and certifying the record of proceedings. Should the

1 petitioner in the review proceeding fail to make payment, the
2 provisions of Section 3-109 of the Code of Civil Procedure
3 shall apply.

4 In the event the petitioner is a citizens' group that
5 participated in the siting proceeding and is so located as to
6 be affected by the proposed facility, such petitioner shall be
7 exempt from paying the costs of preparing and certifying the
8 record.

9 (o) Notwithstanding any other provision of this Section, a
10 transfer station used exclusively for landscape waste, where
11 landscape waste is held no longer than 24 hours from the time
12 it was received, is not subject to the requirements of local
13 siting approval under this Section, but is subject only to
14 local zoning approval.

15 (p) The siting approval procedures, criteria, and appeal
16 procedures provided for in this Act for new air pollution
17 sources shall be in addition to the applicable local land use
18 and zoning standards, procedures, rules, and appeal
19 procedures. Local zoning or other local land use requirements
20 shall continue to be applicable to such siting decisions for
21 new air pollution sources in addition to the siting approval
22 procedures, criteria, and appeal procedures provided in this
23 Act.

24 (Source: P.A. 100-382, eff. 8-25-17.)

25 (415 ILCS 5/39.15 new)

1 Sec. 39.15. Environmental justice considerations in
2 permitting.

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

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

13 (2) In addition to the public notice requirements
14 referenced in paragraph (1), the Agency shall provide the
15 public with notice of an application for a permit, permit
16 renewal, or permit modification if the facility or
17 proposed facility is located or is to be located in an
18 environmental justice community for the following types of
19 permitting transactions: (i) permits for pollution control
20 facilities subject to local siting review under Section
21 39.2; and (ii) individual minor or major NPDES permits
22 issued under subsection (b) of Section 39. The public
23 notice shall:

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

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

7 (B) include: (i) the name and address of the
8 permit applicant and the facility or proposed
9 facility; and (ii) the activity or activities at the
10 facility or proposed facility being permitted.

11 (b) The Agency must comply with the following requirements
12 regarding linguistically isolated communities:

13 (1) For a community determined to be in linguistic
14 isolation, the Agency shall provide all public notices
15 required by this Section in a multi-lingual format
16 appropriate to the needs of the linguistically isolated
17 community.

18 (2) For a community determined to be in linguistic
19 isolation, the Agency shall provide oral and written
20 translation services at public hearings.

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

1 provided in writing to the permit applicant with the specific
2 reason and new permitting deadline.

3 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

4 Sec. 40. Appeal of permit denial.

5 (a)(1) If the Agency refuses to grant or grants with
6 conditions a permit under Section 39 of this Act, the
7 applicant may, within 35 days after the date on which the
8 Agency served its decision on the applicant, petition for a
9 hearing before the Board to contest the decision of the
10 Agency. However, the 35-day period for petitioning for a
11 hearing may be extended for an additional period of time not to
12 exceed 90 days by written notice provided to the Board from the
13 applicant and the Agency within the initial appeal period. The
14 Board shall give 21 days' notice to any person in the county
15 where is located the facility in issue who has requested
16 notice of enforcement proceedings and to each member of the
17 General Assembly in whose legislative district that
18 installation or property is located; and shall publish that
19 21-day notice in a newspaper of general circulation in that
20 county. The Agency shall appear as respondent in such hearing.
21 At such hearing the rules prescribed in Section 32 and
22 subsection (a) of Section 33 of this Act shall apply, and the
23 burden of proof shall be on the petitioner. If, however, the
24 Agency issues an NPDES permit that imposes limits which are
25 based upon a criterion or denies a permit based upon

1 application of a criterion, then the Agency shall have the
2 burden of going forward with the basis for the derivation of
3 those limits or criterion which were derived under the Board's
4 rules.

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

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

23 (b) If the Agency grants a RCRA permit for a hazardous
24 waste disposal site, 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 such petition is duplicative or
3 frivolous, or that the petitioner is so located as to not be
4 affected by the permitted facility, the Board shall hear the
5 petition in accordance with the terms of subsection (a) of
6 this Section and its procedural rules governing denial
7 appeals, such hearing to be based exclusively on the record
8 before the Agency. The burden of proof shall be on the
9 petitioner. The Agency and the permit applicant shall be named
10 co-respondents.

11 The provisions of this subsection do not apply to the
12 granting of permits issued for the disposal or utilization of
13 sludge from publicly owned ~~publicly owned~~ sewage works.

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

1 on the record compiled in the Agency proceeding. In other
2 respects the Board's review shall be conducted in accordance
3 with subsection (a) of this Section and the Board's procedural
4 rules governing permit denial appeals.

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

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

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

22 (A) a demonstration that the petitioner raised the
23 issues contained within the petition during the public
24 notice period or during the public hearing on the NPDES
25 permit application, if a public hearing was held; and

26 (B) a demonstration that the petitioner is so situated

1 as to be affected by the permitted facility.

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

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

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

18 (h) If the Agency grants a permit to construct, modify, or
19 operate a facility that emits air pollutants and is classified
20 as a minor source, a third party, other than the permit
21 applicant or Agency, may, within 35 days after the date on
22 which the Agency issued its decision, petition the Board for a
23 hearing to contest the issuance of the permit. Unless the
24 Board determines that such petition is duplicative or
25 frivolous or that the petitioner is so located as to not be
26 affected by the permitted facility, the Board shall hear the

1 petition in accordance with the terms of subsection (a) of
2 this Section and its procedural rules governing denial
3 appeals. The hearing shall be based exclusively on the record
4 before the Agency. The burden of proof shall be on the
5 petitioner. The Agency and the permit applicant shall be named
6 co-respondents.

7 (Source: P.A. 100-201, eff. 8-18-17; 101-171, eff. 7-30-19;
8 revised 9-12-19.)

9 (415 ILCS 5/40.4 new)

10 Sec. 40.4. Environmental justice grievance.

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

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

23 (c) To initiate an environmental justice grievance process
24 a person must file a complaint with the Agency within 60 days
25 after an alleged violation. The Agency, in its discretion, may

1 waive the 60-day deadline for good cause. The complaint must:

2 (1) be in writing;

3 (2) describe with specificity the discrimination
4 alleged; and

5 (3) identify the parties impacted by the alleged
6 discrimination.

7 (d) The complaint under subsection (c) must be addressed
8 as follows:

9 Illinois Environmental Protection Agency

10 Environmental Justice Officer

11 1021 North Grand Avenue East

12 P.O. Box 19276

13 Springfield, IL 62794

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

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

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

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

1 complaint; or

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

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

1 INDEX

2 Statutes amended in order of appearance

3 415 ILCS 5/3.187 new

4 415 ILCS 5/3.281 new

5 415 ILCS 5/9.12

6 415 ILCS 5/22.62 new

7 415 ILCS 5/34.5 new

8 415 ILCS 5/39 from Ch. 111 1/2, par. 1039

9 415 ILCS 5/39.2 from Ch. 111 1/2, par. 1039.2

10 415 ILCS 5/39.15 new

11 415 ILCS 5/40 from Ch. 111 1/2, par. 1040

12 415 ILCS 5/40.4 new