



Rep. Sonya M. Harper

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1 AMENDMENT TO HOUSE BILL 3090

2 AMENDMENT NO. _____. Amend House Bill 3090 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be referred to as the
5 Fairness in Environmental Permitting Act.

6 Section 5. Findings; purpose.

7 (a) The General Assembly finds that:

8 (1) the State of Illinois has a long-standing policy,
9 prescribed by Article XI of the Illinois Constitution, to
10 maintain a healthful environment for the benefit of this
11 and future generations and that every State resident is
12 entitled to a healthful environment;

13 (2) a healthful environment is essential to the
14 sustainable growth and development of the State and its
15 residents;

16 (3) persistent racial and economic inequalities, and

1 the forces that cause them, embedded throughout society
2 have concentrated harmful environmental polluters of the
3 air, water and land near and within communities of color,
4 tribal communities, and low-income communities;

5 (4) as a result, these communities have historically
6 borne and continue to bear a disproportionate level of
7 environmental pollution and associated adverse human
8 health effects resulting from the construction and
9 operation of industrial, municipal and commercial
10 activities, relative to other neighborhoods;

11 (5) the current permitting practices of the Illinois
12 Environmental Protection Agency are inadequate for
13 protecting residents of these communities from bearing a
14 disproportional level of environmental pollution and
15 associated adverse human health effects;

16 (6) a permit application shall not be considered in
17 isolation but rather as part of these communities'
18 existing cumulative levels of environmental pollution and
19 associated adverse human health effects, such that whether
20 and how approval of a new permit or renewal of an existing
21 permit would affect those cumulative burdens is
22 independent justification for rejecting a permit
23 application;

24 (7) it is essential that the Agency consider past
25 incidents of noncompliance with permit requirements, state
26 laws, and local ordinances when determining whether a

1 permit application is approved or denied, such that a
2 documented history of noncompliance is independent
3 justification for rejecting a permit application;

4 (8) in-person public meetings and hearings in or near
5 communities in which permit applicants are located or
6 proposed to be located must inform the Agency's decision
7 making about pending permit applications, especially in
8 communities that have historically borne and continue to
9 bear a disproportionate level of environmental pollution
10 and associated adverse human health effects resulting from
11 the construction and operation of industrial, municipal
12 and commercial activities, relative to other
13 neighborhoods;

14 (9) documenting and responding to the questions and
15 concerns of residents at such in-person public meetings
16 and hearings is crucial to full evaluation of a permit
17 application, which shall not be considered complete unless
18 residents are given the opportunity to make their voices
19 heard in a meaningful way about a permit application that
20 will affect their community;

21 (10) statutory deadlines for approving a permit
22 application are subordinate to the overarching requirement
23 that the Agency conduct a thorough and complete evaluation
24 of a permit application, and thus those deadlines should
25 be extended to the extent necessary to complete a thorough
26 and complete evaluation that includes the factors

1 discussed throughout these findings; and

2 (11) the ability for third parties to appeal the
3 granting of a permit for a facility that emits air
4 pollutants and is classified as a minor source ensures
5 affected residents may hold polluters and the Agency
6 accountable for its permitting decisions.

7 (b) The purpose of this amendatory Act is to bolster the
8 Agency's permitting procedures in a way that ensures the
9 Agency comprehensively considers a permit applicant's past
10 noncompliance with permit requirements and state and local
11 laws, as well as the cumulative effect approval of a permit
12 would have on a community's levels of environmental pollution
13 and associated adverse human health effects; affected
14 residents are given meaningful opportunities to voice their
15 concerns about permit applications at in-person hearings; and
16 there is an avenue through which third parties may appeal a
17 permit for a facility that emits air pollutants and is
18 classified as a minor source.

19 Section 10. The Environmental Protection Act is amended by
20 changing Sections 39 and 40 and by adding Title XVIII as
21 follows:

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

23 Sec. 39. Issuance of permits; procedures.

24 (a) When the Board has by regulation required a permit for

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

1 denied. Such statements shall include, but not be limited to
2 the following:

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

5 (ii) the provision of the regulations, promulgated
6 under this Act, which may be violated if the permit were
7 granted;

8 (iii) the specific type of information, if any, which
9 the Agency deems the applicant did not provide the Agency;
10 and

11 (iv) a statement of specific reasons why the Act and
12 the regulations might not be met if the permit were
13 granted.

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

1 UIC permit applications under subsection (e) of this Section,
2 ~~or~~ to CCR surface impoundment applications under subsection
3 (y) of this Section, or when the Director issues a finding that
4 additional time is necessary for the Agency to provide for
5 public participation or to complete its analysis of the permit
6 application or public comments to ensure compliance with the
7 requirements of this Act.

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

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

25 After June 30, 1998, operating permits issued under this
26 Section by the Agency for sources of air pollution that are not

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

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

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

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

26 The Agency may include, among such conditions, effluent

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

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

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

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

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

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

24 Beginning August 20, 1993, if the pollution control
25 facility consists of a hazardous or solid waste disposal
26 facility for which the proposed site is located in an

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

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

25 After January 1, 1994, if a solid waste disposal facility,
26 any portion for which an operating permit has been issued by

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

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

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

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

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

12 (1) the municipal waste transfer station was in
13 existence on or before January 1, 1979 and was in
14 continuous operation from January 1, 1979 to January 1,
15 1993;

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

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

25 (4) the site has local zoning approval.

26 (d) The Agency may issue RCRA permits exclusively under

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

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

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

23 The Agency shall adopt filing requirements and procedures
24 which are necessary and appropriate for the issuance of RCRA
25 permits, and which are consistent with the Act or regulations
26 adopted by the Board, and with the Resource Conservation and

1 Recovery Act of 1976 (P.L. 94-580), as amended, and
2 regulations pursuant thereto.

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

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

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

26 The Agency shall adopt filing requirements and procedures

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

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

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

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

24 (2) The Agency shall adopt requirements as necessary
25 to implement public participation procedures, including,
26 but not limited to, public notice, comment, and an

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

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

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

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

1 of record in the Office of the Recorder of the county in which
2 the hazardous waste disposal site is located.

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

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

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

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

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

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

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

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

1 authorized under any permit issued by the Agency.

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

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

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

24 (m) The Agency may issue permits to persons owning or
25 operating a facility for composting landscape waste. In
26 granting such permits, the Agency may impose such conditions

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

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

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

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

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

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

26 The Agency shall issue permits for such facilities upon

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

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

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

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

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

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

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

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

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

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

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

21 (o) (Blank.)

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

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

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

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

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

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

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

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

25 (2) Within 2 years after July 12, 2011 (the effective
26 date of Public Act 97-95), permit application forms or

1 portions of permit applications that can be completed and
2 saved electronically, and submitted to the Agency
3 electronically with digital signatures.

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

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

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

1 include, but shall not be limited to, (i) the
2 application being inadequate or incomplete, (ii)
3 scientific or technical disagreements with the
4 applicant, USEPA, or other local, state, or federal
5 agencies involved in the permitting approval process,
6 (iii) public opposition to the permit, or (iv) Agency
7 staffing shortages. To the extent practicable, the
8 tracking report shall provide approximate dates when
9 cause for delay was identified by the Agency, when the
10 Agency informed the applicant of the problem leading
11 to the delay, and when the applicant remedied the
12 reason for the delay.

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

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

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

1 suggested language or any portion thereof in its permitting
2 decision. If requested by the permit applicant, the Agency
3 shall meet with the applicant to discuss the suggested
4 language.

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

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

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

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

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

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

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

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

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

26 (z) If the Director receives a written request from a

1 third party for the Agency to conduct a public hearing or a
2 public meeting regarding any pending permit decision, a public
3 hearing or public meeting shall be held in person at a location
4 in close proximity to the facility, site, or activity
5 described in the permit application.

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

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

8 Sec. 40. Appeal of permit denial.

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

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

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

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

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

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

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

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

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

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

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

26 (A) a demonstration that the petitioner raised the

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

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

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

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

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

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

1 hearing to contest the issuance of the permit. Unless the
2 Board determines that the petition is duplicative or
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 (Source: P.A. 100-201, eff. 8-18-17; 101-171, eff. 7-30-19;
12 revised 9-12-19.)

13 (415 ILCS 5/Tit. XVIII heading new)

14 TITLE XVIII: ENVIRONMENTAL JUSTICE

15 (415 ILCS 5/60 new)

16 Sec. 60. Findings; purpose.

17 (a) The General Assembly finds that:

18 (1) the State of Illinois has a long-standing policy,
19 prescribed by Article XI of the Illinois Constitution, to
20 maintain a healthful environment for the benefit of this
21 and future generations and that every State resident is
22 entitled to a healthful environment;

23 (2) a healthful environment is essential to the
24 sustainable growth and development of the State and its

1 residents;

2 (3) persistent racial and economic inequalities, and
3 the forces that cause them, embedded throughout our
4 society have concentrated harmful environmental polluters
5 of the air, water, and land near and within communities of
6 color, tribal communities, and low-income communities;

7 (4) as a result these communities have historically
8 borne and continue to bear a disproportionate level of
9 environmental pollution and associated adverse human
10 health effects resulting from the construction and
11 operation of industrial, municipal, and commercial
12 activities relative to other neighborhoods;

13 (5) such adverse human health effects include, but are
14 not limited to, asthma, cancer, elevated blood lead
15 levels, cardiovascular disease, and developmental
16 disorders;

17 (6) children are especially vulnerable to the adverse
18 health effects caused by exposure to pollution, and such
19 health effects may severely limit a child's potential for
20 future success;

21 (7) the legacy of permitting sources of pollution in
22 these communities continues to impose adverse health
23 effects caused by pollution that impede the growth,
24 stability, and well-being of individuals and families
25 living in and near these communities;

26 (8) meaningful participation of State residents,

1 especially those who live in such communities that have
2 historically borne and continue to bear a disproportionate
3 level of environmental pollution and associated adverse
4 human health effects resulting from the construction and
5 operation of industrial, municipal, and commercial
6 activities is critical to ensuring that environmental
7 justice considerations permeate the development of,
8 decision-making related to, and implementation of all
9 environmental laws, rules, policies, permits, and other
10 actions by the Illinois Environmental Protection Agency in
11 a way that protects and improves the well-being of these
12 communities;

13 (9) all residents have the right to file legal
14 grievances related to environmental justice; and

15 (10) it is time for the State to correct these
16 longstanding and ongoing injustices.

17 (b) The purpose of this Title is to require that
18 environmental justice considerations are incorporated in all
19 Illinois Environmental Protection Agency actions and decisions
20 to ensure that no person or group of persons of common race,
21 ethnicity, color, religion, sexual orientation, or
22 socioeconomic status shall bear a disproportionate level of
23 adverse human health or environmental effects resulting from
24 the construction or operation of industrial, municipal, or
25 commercial activities, and that all residents of this State
26 shall have the right and ability to meaningfully engage in the

1 public participation provisions of this Act regardless of
2 race, ethnicity, color, religion, sexual orientation, or
3 socioeconomic status. This Title implements Article XI of the
4 Illinois Constitution.

5 (c) The terms and provisions of this Title shall be
6 liberally construed to effectuate the purposes of this Title
7 as set forth in subsection (a) of this Section.

8 (415 ILCS 5/65 new)

9 Sec. 65. Definitions. In this Title:

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

12 "Board" means the Illinois Pollution Control Board.

13 "Commission" means the Illinois Commission on
14 Environmental Justice.

15 "Director" means the Director of the Environmental
16 Protection Agency.

17 "Environmental justice" means that no resident or group of
18 residents of this State of common race, ethnicity, color,
19 religion, sexual orientation, or socioeconomic status shall
20 bear a disproportionate level of adverse human health or
21 environmental effects resulting from the construction or
22 operation of industrial, municipal, or commercial activities,
23 and that all residents have the right and ability to engage
24 meaningfully in the public participation provisions of this
25 Act regardless of race, ethnicity, color, religion, sexual

1 orientation, or socioeconomic status.

2 "Environmental justice community" means those communities
3 identified by the Agency under Section 70.

4 "Facility" means an entity that requires a permit from the
5 Agency.

6 "Linguistic isolation percentage" means the percentage of
7 households in an environmental justice community in which all
8 members age 14 years and older speak a non-English language
9 and speak English less than "very well" according to the
10 United States Census Bureau's latest 1-year or 5-year American
11 Community Survey.

12 "Meaningful public participation" means giving residents
13 of environmental justice communities the full and complete
14 opportunity to participate in the Agency's decision-making
15 process about: (i) proposed regulated facilities that may
16 adversely affect the residents' environment or health; (ii)
17 the expansion or continued operation of existing regulated
18 facilities that may adversely affect the residents'
19 environment or health; and (iii) all other Agency rules,
20 regulations, and policies that may affect environmental
21 justice communities.

22 "Permit" means a permit issued by the Agency.

23 (415 ILCS 5/70 new)

24 Sec. 70. Identifying environmental justice communities.

25 (a) The Agency shall by rule establish a process for

1 identifying environmental justice communities based on
2 methodologies that factor socioeconomic, demographic, and
3 environmental burden indicators. Such indicators may include,
4 but are not limited to:

5 (1) National-Scale Air Toxics Assessment (NATA) air
6 toxics cancer risk;

7 (2) National-Scale Air Toxics Assessment (NATA)
8 respiratory hazard index;

9 (3) National-Scale Air Toxics Assessment (NATA) diesel
10 particulate matter;

11 (4) PM2.5;

12 (5) ozone;

13 (6) traffic proximity and volume;

14 (7) lead paint indicator;

15 (8) proximity to Risk Management Plan sites;

16 (9) proximity to Hazardous Waste Treatment, Storage,
17 and Disposal Facilities;

18 (10) proximity to National Priorities List sites;

19 (11) wastewater dischargers indicator;

20 (12) percent low income;

21 (13) percent minority;

22 (14) percent less than high school education;

23 (15) linguistic isolation;

24 (16) individuals under age 5;

25 (17) individuals over age 64;

26 (18) asthma emergency department visits;

1 (19) percent low birth weight infants;

2 (20) drinking water watch;

3 (21) proximity to site remediation program sites;

4 (22) Leaking Underground Storage Tank Incident
5 tracking;

6 (23) proximity to State response action program sites;

7 (24) proximity to solid waste facilities;

8 (25) record of violations compiled by the Occupational
9 Safety and Health Administration of the United States
10 Department of Labor, the Illinois Department of Labor, or
11 both; and

12 (26) the presence of migrant, seasonal, and transitory
13 workers.

14 (b) The Agency shall annually review and update the
15 underlying data for, and use of, indicators under subsection
16 (a) for the sake of accuracy and to comport with best practices
17 as developed by entities, including, but not limited to: the
18 United States Environmental Protection Agency; State agencies,
19 including the Illinois Department of Public Health, the
20 Illinois Housing Development Authority, the Illinois
21 Department of Education, the Illinois Power Agency, the
22 Illinois Department of Agriculture, and the Illinois
23 Department of Natural Resources; State municipalities and
24 units of local government; and the executive branch, agencies,
25 municipalities, and units of local government in other states.

26 (c) The Agency shall establish a process by which

1 communities not designated as environmental justice
2 communities may petition for such designation.

3 (d) The Agency shall include representatives of State
4 environmental justice organizations, other State environmental
5 justice stakeholders, and the Commission in the development of
6 the processes required to be developed by subsections (a)
7 through (c).

8 (415 ILCS 5/75 new)

9 Sec. 75. Public notice; community outreach.

10 (a) The Agency shall adopt rules that provide for
11 meaningful public participation in, and notice of, Agency
12 decisions and actions that may affect environmental justice
13 communities, including, but not limited to: rulemaking;
14 policymaking; and approval, renewal, or modification of a
15 permit from the Agency for any facility located or proposed to
16 be located in an environmental justice community. No later
17 than one year after the effective date of this amendatory Act
18 of the 102nd General Assembly, the Agency shall propose, and
19 not later than one year after proposal, the Board shall adopt,
20 rules under this Section. The rules shall be consistent with
21 the findings in subsection (a) of Section 60 and, at a minimum,
22 include provisions stipulating that the Agency shall:

23 (1) provide and distribute to the public all public
24 notices and documents, including, but not limited to,
25 informational hearings, fact sheets, permit applications,

1 environmental justice impact statements, and proposed
2 projects, in multi-lingual format, to environmental
3 justice communities with linguistic isolation;

4 (2) include notification to elected officials for the
5 location in which the facility seeking a permit is
6 located, and notification to child care center directors,
7 school principals, and public park superintendents whose
8 buildings are located within one mile of the location of
9 the facility seeking a permit;

10 (3) present on the Agency's website in a readily
11 accessible manner all public notices and documents,
12 including, but not limited to, informational hearings,
13 environmental justice impact statements, fact sheets,
14 permit applications, proposed projects, and any document
15 subject to the Freedom of Information Act, no later than
16 10 calendar days after the document's date of release or
17 publishing, whichever comes first;

18 (4) provide and distribute to the public all public
19 documents and notices, including, but not limited to,
20 those described in paragraph (2), through mediums,
21 including, but not limited to, document repositories and
22 electronic and postal mailing lists;

23 (5) provide translators at public hearings and
24 meetings of any kind in environmental justice communities
25 with a linguistic isolation or upon request; and

26 (6) conduct an in-person public hearing or public

1 meeting at a location in close proximity to a facility
2 seeking a permit if the Director receives a written
3 request from a third party for the Agency to conduct a
4 public hearing or a public meeting regarding a pending
5 permit.

6 (b) The Agency shall include representatives of State
7 environmental justice organizations, other State environmental
8 justice stakeholders and the Commission in the development of
9 rules required to be created under subsection (a).

10 (415 ILCS 5/80 new)

11 Sec. 80. Environmental justice impact statements.

12 (a) The Agency shall develop a uniform environmental
13 justice impact statement template that, at a minimum, requires
14 that a permit applicant assesses and details the potential
15 environmental and public health effects associated with a
16 proposed new facility or with the expansion of an existing
17 facility, including any adverse environmental or public health
18 effects that cannot be avoided if the permit is granted and the
19 environmental or public health effects already borne by the
20 environmental justice community as a result of existing
21 conditions located in or affecting the environmental justice
22 community. No later than one year after the effective date of
23 this amendatory Act of the 102nd General Assembly, the Agency
24 shall propose, and not later than months one year after
25 proposal, the Board shall adopt, an environmental justice

1 impact statement template.

2 (b) The Agency shall not consider complete for review any
3 application for a permit for a new facility, the expansion of
4 an existing facility, or renewal of an existing facility if
5 the facility is located, or proposed to be located, in whole or
6 in part, in an environmental justice community, unless and
7 until the permit applicant:

8 (1) prepares an environmental justice impact statement
9 that conforms to the template that is developed per the
10 requirements of subsection (a); and

11 (2) transmits the environmental justice impact
12 statement to the Agency, State and local officials who
13 represent the pertinent environmental justice community,
14 and residents and environmental justice organizations
15 located in the environmental justice community.

16 (c) The Agency shall present completed environmental
17 justice impact statements on the Agency's website in a readily
18 accessible manner.

19 (d) Notwithstanding the provisions of any other law, rule,
20 or regulation, the Agency, after review of the environmental
21 justice impact statement prepared pursuant to paragraph (1) of
22 subsection (b), and any other relevant information, including,
23 but not limited to, information gleaned from public hearings
24 and other meaningful public participation rules developed by
25 the Agency pursuant to Section 75, shall deny a permit for a
26 new facility or the expansion of an existing facility, or deny

1 or apply new conditions to the renewal of an existing
2 facility's permit, upon a finding that approval of the permit
3 or permit renewal, as proposed, would, together with other
4 environmental or public health consequences affecting the
5 environmental justice community, cause or contribute to
6 adverse cumulative environmental or public health effects in
7 the environmental justice community that are higher than those
8 borne by other communities within the State, county, or other
9 geographic unit of analysis as determined by the Agency
10 pursuant to rule, regulation, or guidance.

11 (e) The Agency shall include representatives of State
12 environmental justice organizations, other State environmental
13 justice stakeholders, and the Commission in the development of
14 the environmental justice impact statement template as
15 mandated under subsection (a). The Agency shall respond in
16 writing to all significant public comments received during
17 this process.

18 (f) Environmental justice impact statements and the
19 Agency's review of these statements shall be included in the
20 record of the Agency's decision for facility permits, and the
21 adequacy of the Agency's environmental justice decisions shall
22 be a basis for permit appeals to the Board by members of the
23 public.

24 (415 ILCS 5/85 new)

25 Sec. 85. Environmental justice grievance procedure.

1 (a) No later than 60 days after the effective date of this
2 Amendatory Act of the 102nd General Assembly, the Agency shall
3 establish an environmental justice grievance procedure by
4 which any person or class of persons who believe they have been
5 discriminated against by the Agency may file a complaint for a
6 violation of:

7 (1) provisions of this Title;

8 (2) Title VI, Section 601 of the 1964 Civil Rights
9 Act, pursuant to 40 CFR 5 and 7.90;

10 (3) the Illinois Civil Rights Act of 2006; or

11 (4) other provisions of this Act.

12 (b) Decisions made by the Agency under the grievance
13 procedure to be established under subsection (a) shall be
14 appealable to the Board and the Circuit Courts of the State.

15 (c) The Agency shall include representatives of State
16 environmental justice organizations, other State environmental
17 justice stakeholders, and the Commission in the development of
18 the processes required to be developed under subsection (a).

19 (d) The Agency shall maintain an online repository of all
20 grievances filed with the Agency and the resolution of those
21 grievances.

22 (e) Final Agency decisions to decline to commence
23 enforcement following a citizen complaint can serve as the
24 basis of a grievance pursuant to this Section.

1 Sec. 90. Permit applicant fee.In addition to any other fee
2 authorized by law, rule, or regulation, the Agency shall by
3 rule establish and assess each permit applicant a reasonable
4 fee to cover Agency costs associated with the implementation
5 of this Title, including, but not limited to, costs to provide
6 technical assistance to permit applicants and environmental
7 justice communities, as needed, to comply with this Title.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".