



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4093

Introduced 5/25/2021, by Rep. Sonya M. Harper

#### 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 18582 CPF 26885 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