



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3119

Introduced 2/17/2023, by Rep. Ann M. Williams

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Carbon Dioxide Transport and Storage Protections Act. Provides that a sequestration operator may not exercise any authority to take or acquire any easement or title to any pore space or any portion of an area of review pursuant to the Eminent Domain Act. Provides that the sequestration operator is solely liable for any and all damage caused by the carbon dioxide transported to the sequestration facility for injection or sequestration, or otherwise under the sequestration operator's control, including damage caused by carbon dioxide released from the sequestration facility, regardless of who holds title to the carbon dioxide, the pore space, or the surface estate. Provides that in addition to any permit fees required by the Environmental Protection Act, sequestration operators and pipeline operators who transport or sequester carbon dioxide in the State must pay a fee each year to the State for deposit in the Carbon Transportation and Sequestration Readiness Fund established by this Act. Creates the Carbon Transportation and Sequestration Readiness Fund and makes a corresponding change to the State Finance Act. Provides for: training for carbon dioxide emergencies for emergency responders, medical personnel, residents, businesses, and other local entities. Makes a corresponding change to the Illinois Power Agency Act and the Public Utilities Act. Amends the Environmental Protection Act. Provides for: setbacks from carbon dioxide pipelines; permitting required for carbon dioxide capture; prohibition of conducting any carbon sequestration operation without a permit; and permitting required for carbon sequestration. Provides that if the Environmental Protection agency grants or denies a permit for capture of carbon dioxide or a permit for sequestration of carbon dioxide, any person may petition the Pollution Control Board within 35 days from the date of issuance of the Agency's decision for a hearing to contest the decision of the Agency. Makes other changes. Effective immediately.

LRB103 29449 CPF 55841 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Carbon  
5 Dioxide Transport and Storage Protections Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) State law currently lacks clarity concerning the  
8 rights of landowners with regard to pore space in the  
9 subsurface beneath the landowners' property, limiting  
10 landowners' ability to fully enjoy and protect the  
11 property.

12 (2) The transport of carbon dioxide via pipeline  
13 significantly affects landowners' rights to enjoy the  
14 landowners' property. Carbon dioxide pipelines may impede  
15 access to property and fields, harm crops, and topsoil,  
16 and pose a risk of grave harm if there is a release of  
17 carbon dioxide.

18 (3) The storage of carbon dioxide in subsurface pore  
19 space may have profound impacts upon the surface estate.  
20 Such storage may: require easements for pipelines,  
21 injection wells, monitoring equipment, and other  
22 infrastructure; harm crops and topsoil; and risk grave  
23 harm to landowners, surrounding ecosystems, and water

1 supplies if carbon dioxide is released.

2 (4) To protect landowners, surface ecosystems,  
3 groundwater, and nearby residents, it is essential that  
4 the State clarify the ownership, liability, and other  
5 property rights associated with carbon dioxide  
6 transportation and storage before additional carbon  
7 transport and storage takes place in our State, as well as  
8 provide local governments and residents with training and  
9 resources so they can be prepared in the event of a carbon  
10 dioxide release.

11 Section 10. Definitions. As used in this Act:

12 "Agency" means the Environmental Protection Agency.

13 "Amalgamation" means the combining or uniting of property  
14 rights in adjacent subsurface pore space for the purpose of  
15 permanent storage of carbon dioxide.

16 "Area of review" has the same meaning as in the  
17 Environmental Protection Act.

18 "Carbon dioxide injection well" means a well that is used  
19 to inject carbon dioxide into a reservoir for permanent  
20 geologic sequestration.

21 "Carbon dioxide pipeline" or "pipeline" means the in-state  
22 portion of a pipeline, including appurtenant facilities,  
23 property rights, and easements, that are used for the purpose  
24 of transporting carbon dioxide.

25 "Carbon dioxide stream" means carbon dioxide and any

1 incidental associated substances derived from the source  
2 materials and the production or capture process, and any  
3 substance added to the stream to enable or improve the  
4 injection process or the detection of a leak or rupture.

5 "Carbon dioxide sequestration reservoir" means a portion  
6 of a sedimentary geologic stratum or formation containing pore  
7 space, including depleted reservoirs and saline formations  
8 that the Agency has determined is suitable for injection and  
9 permanent storage of carbon dioxide.

10 "Easement" means an interest in land owned by another  
11 person, consisting in the right to use or control the land, or  
12 an area above or below it, for a specific purpose, including  
13 storage of carbon dioxide in subsurface cavities.

14 "Person" has the meaning ascribed to that term in Section  
15 3.315 of the Illinois Environmental Protection Act.

16 "Pipeline operator" means any person who owns, leases,  
17 operates, controls, or supervises a pipeline that transports  
18 carbon dioxide.

19 "Pore space" means subsurface cavities, voids, or saline  
20 beds that can be used as storage for carbon dioxide.

21 "Pore space owner" means the person who has title to the  
22 pore space.

23 "Sequester" has the meaning ascribed to that term in  
24 Section 1-10 of the Illinois Power Agency Act.

25 "Sequestration" means sequester.

26 "Sequestration facility" means the Carbon dioxide

1 sequestration reservoir, underground equipment and surface  
2 facilities and equipment used or proposed to be used in a  
3 geologic storage operation. "Sequestration facility" includes  
4 the injection well and equipment used to connect the surface  
5 facility and equipment to the Carbon dioxide sequestration  
6 reservoir and underground equipment. "Sequestration facility"  
7 does not include pipelines used to transport carbon dioxide to  
8 the sequestration facility.

9 "Sequestration operator" means a person holding, applying  
10 for, or who is required to obtain, a carbon sequestration  
11 permit in accordance with Section 22.63 of the Illinois  
12 Environmental Protection Act, as amended, and implementing  
13 regulations.

14 "Sequestration pore space" means the pore space proposed,  
15 authorized, or used for sequestering one or more carbon  
16 dioxide streams pursuant to a permit or permit application  
17 under Section 22.63 of the Illinois Environmental Protection  
18 Act, as amended, and implementing regulations.

19 "Surface owner" means, as identified in the records of the  
20 recorder of deeds for each county containing some portion of  
21 the proposed Carbon dioxide sequestration reservoir, any owner  
22 of a whole or undivided fee simple interest or other freehold  
23 interest in real property, which may or may not include  
24 mineral rights, in the surface above the sequestration pore  
25 space, but does not include an owner of a right-of-way,  
26 easement, leasehold, or any other lesser estate.

1           "Transportation" means the physical movement of carbon  
2           dioxide by pipeline conducted for a person's own use or  
3           account or the use or account of another person or persons.

4           Section 15. Ownership and conveyance of pore space.

5           (a) Title to pore space is vested in the surface owner of  
6           the overlying surface estate.

7           (b) A conveyance of title to the surface estate conveys  
8           the pore space in all strata underlying the surface estate.

9           (c) Title to pore space may not be severed from the surface  
10          estate.

11          (d) A grant of easement for use of pore space is not a  
12          severance prohibited by this Section.

13          (e) A grant of easement for use of pore space shall not  
14          confer any right to enter upon or otherwise use the surface of  
15          the land unless the grant of easement expressly so provides.

16          Section 20. No compulsory amalgamation. Regardless of any  
17          other provisions of law, a sequestration operator may not  
18          exercise any authority to take or acquire any easement or  
19          title to any pore space or any portion of an area of review  
20          pursuant to the Eminent Domain Act. A sequestration operator  
21          must obtain, for the entirety of the area of review the person  
22          seeks to utilize for carbon sequestration, either: (i) a  
23          written grant of easement to enter into and utilize a surface  
24          owner's portion of the proposed area of review for carbon

1 sequestration; or (ii) title to that portion of the proposed  
2 area of review and overlying surface estate.

3 Section 25. Ownership of carbon dioxide; liability.

4 (a) The sequestration operator is solely liable for any  
5 and all damage caused by the carbon dioxide transported to the  
6 sequestration facility for injection or sequestration, or  
7 otherwise under the sequestration operator's control,  
8 including damage caused by carbon dioxide released from the  
9 sequestration facility, regardless of who holds title to the  
10 carbon dioxide, the pore space, or the surface estate.

11 (b) The sequestration operator is solely liable for any  
12 and all damage or harms that may result from equipment  
13 associated with carbon sequestration, including, but not  
14 limited to, operation thereof.

15 (c) Title to the carbon dioxide sequestered in the State  
16 is not vested in the owner of the sequestration pore space.  
17 Rather, sequestered carbon dioxide is a separate property  
18 independent of the sequestration pore space.

19 Section 30. Carbon transportation and sequestration  
20 emergency response fee.

21 (a) In addition to any permit fees required by the  
22 Environmental Protection Act, all sequestration operators and  
23 pipeline operators who transport or sequester carbon dioxide  
24 in the State must pay a fee each year to the State for deposit

1 in the Carbon Transportation and Sequestration Readiness Fund  
2 established by this Act. Fees shall be determined as a set  
3 amount per mile of approved pipeline for each carbon dioxide  
4 pipeline, per square mile of area of review, and per ton of  
5 carbon dioxide sequestered for each approved carbon  
6 sequestration project, which shall be adjusted annually for  
7 inflation and which shall be determined by the Illinois  
8 Emergency Management Agency as more than adequate to fund  
9 emergency preparedness and response costs for counties and  
10 municipalities through which a carbon pipeline passes or in  
11 which carbon sequestration takes place.

12 (b) The Illinois Emergency Management Agency shall  
13 determine, through rules, the appropriate fees that meet the  
14 requirements of subsection (a).

15 Section 35. Carbon Transportation and Sequestration  
16 Readiness Fund.

17 (a) The Carbon Transportation and Sequestration Readiness  
18 Fund is established as a special fund in the State treasury.

19 (b) The Carbon Transportation and Sequestration Readiness  
20 Fund shall consist of all Carbon Transportation and  
21 Sequestration Emergency Response Fees collected pursuant to  
22 Section 25 of this Act, all interest earned on money in the  
23 fund, and any additional money allocated to the fund by the  
24 General Assembly.

25 (c) The Carbon Transportation and Sequestration Readiness



1 Fund shall be used only in the following manner:

2 (1) to cover administrative costs of the Illinois  
3 Emergency Management Agency for administration of grants  
4 awarded under this Section and costs to the Illinois  
5 Emergency Management Agency and Department of Public  
6 Health to cover costs of preparing the training materials  
7 and offering the training sessions required under Section  
8 45;

9 (2) to provide funding to municipalities and counties  
10 through which a carbon pipeline passes or in which carbon  
11 sequestration has been proposed or is taking place, for  
12 use to enhance emergency preparedness and emergency  
13 response capabilities in the event of a carbon dioxide  
14 release. Allowable expenditures include: preparation of  
15 emergency response plans for carbon dioxide release;  
16 purchase of electric emergency response vehicles; text  
17 message or other emergency communication alert systems;  
18 devices that assist in the detection of a carbon dioxide  
19 release; equipment for first responder, local residents,  
20 and medical facilities that assists in the preparation,  
21 detection, or response to the release of carbon dioxide or  
22 other toxic or hazardous materials; and trainings and  
23 training materials for first responders, local residents,  
24 businesses, and other local entities specific to  
25 preparation for, and response to, releases of carbon  
26 dioxide or other toxic or hazardous materials;

1           (3) to fund research on technologies, other than  
2 carbon capture and sequestration, that reduce the  
3 potential for carbon dioxide pollution from industries  
4 that are major sources of carbon dioxide, including but  
5 not limited to steel and cement production; or

6           (4) to fund research to better understand the scope of  
7 potential carbon dioxide releases and methods to further  
8 limit the likelihood of a carbon dioxide release from a  
9 pipeline or sequestration facility, including, but not  
10 limited to, computer modeling to simulate carbon dioxide  
11 leaks from pipelines of varying diameters and lengths. All  
12 research funded under this subsection must result in a  
13 report containing recommendations for safety measures to  
14 be put in place to protect communities from carbon dioxide  
15 releases, such as hazard zones, setbacks, additional  
16 monitoring, or other measures.

17           (d) The Carbon Transportation and Sequestration Readiness  
18 Fund shall be administered by the Illinois Emergency  
19 Management Agency, which each year shall issue requests for  
20 proposals for available funds and award grants to qualified  
21 applicants that meet the criteria of subsection (c) and any  
22 other criteria that Illinois Emergency Management Agency deems  
23 necessary for this fund to serve its intended purpose.  
24 Illinois Emergency Management Agency shall not limit the  
25 number of proposals any funding applicant may submit pursuant  
26 to this subsection. Any applicant may reapply for funding in

1 subsequent years.

2 (e) The Carbon Transportation and Sequestration Readiness  
3 Fund is not subject to the provisions of subsection (c) of  
4 Section 5 of the State Finance Act.

5 Section 40. Training for carbon dioxide emergencies.

6 (a) Training for emergency responders and medical  
7 personnel. Within one year of the effective date of this Act,  
8 the Illinois Emergency Management Agency, together with the  
9 Department of Public Health, shall jointly prepare training  
10 materials for local emergency responders and medical personnel  
11 regarding what to do in the event of release of carbon dioxide  
12 from a pipeline or a sequestration facility, including, but  
13 not limited to:

14 (1) how to identify a carbon dioxide release;

15 (2) communications protocols to quickly share  
16 information about a carbon dioxide release;

17 (3) protocols for locating residents and others in the  
18 affected area and, when necessary, transporting them out  
19 of the area to healthcare facilities; and

20 (4) symptoms of, and treatment for, exposure to a  
21 carbon dioxide release.

22 Each year, the Department of Public Health and Illinois  
23 Emergency Management Agency shall offer at least 3 training  
24 sessions to train emergency responders and medical personnel  
25 in any county in which carbon dioxide is proposed to be, or is,

1 transported or sequestered, on emergency response protocols in  
2 the event of a carbon dioxide release. Unless a health  
3 emergency necessitates virtual training only, the training  
4 sessions shall be in-person with the option to join remotely  
5 and shall be recorded with the recordings maintained on  
6 publicly available websites.

7 Every 5 years, the Department of Public Health and the  
8 Illinois Emergency Management Agency shall review and, if  
9 appropriate, revise the training materials developed under  
10 subsection (a) to incorporate new best practices,  
11 technologies, or new developments in medicine that improve  
12 emergency response and treatment in the event of a carbon  
13 dioxide release.

14 (b) Training for residents, businesses, and other local  
15 entities. Within one year of the effective date of this Act,  
16 the Department of Public Health and the Illinois Emergency  
17 Management Agency shall jointly prepare training materials for  
18 residents, businesses, and other entities located within two  
19 miles of carbon dioxide pipelines or above the Area of Review  
20 regarding carbon dioxide releases. The training materials  
21 shall include, but are not limited to:

22 (1) how to identify a carbon dioxide release;

23 (2) what to do in the event of a carbon dioxide  
24 release; and

25 (3) symptoms of exposure to a carbon dioxide release.

26 These materials should include recommendations for items

1 residents and other entities may want to purchase or request  
2 from local government, including, but not limited to, carbon  
3 dioxide monitors and air supply respirators.

4 Each year, the Department of Public Health and Illinois  
5 Emergency Management Agency, in cooperation with local  
6 emergency response personnel, shall offer at least 2 public  
7 training sessions for residents and local businesses in every  
8 county in which carbon dioxide is proposed to be, or is,  
9 transported or sequestered. The training shall include, at a  
10 minimum, all the information in the training materials  
11 required by subsection (b). Unless a health emergency  
12 necessitates virtual training only, the training sessions  
13 shall be in-person with the option to join remotely and shall  
14 be recorded with the recordings maintained on publicly  
15 available websites.

16 Every 5 years, the Department of Public Health and  
17 Illinois Emergency Management Agency shall review and, if  
18 appropriate, revise the training materials developed under  
19 subsection (b) of this Section to incorporate new best  
20 practices, technologies, or other information that may assist  
21 local residents and businesses to be better prepared in the  
22 event of a carbon dioxide release.

23 Section 900. The Illinois Power Agency Act is amended by  
24 changing Section 1-10 as follows:

1 (20 ILCS 3855/1-10)

2 Sec. 1-10. Definitions.

3 "Agency" means the Illinois Power Agency.

4 "Agency loan agreement" means any agreement pursuant to  
5 which the Illinois Finance Authority agrees to loan the  
6 proceeds of revenue bonds issued with respect to a project to  
7 the Agency upon terms providing for loan repayment  
8 installments at least sufficient to pay when due all principal  
9 of, interest and premium, if any, on those revenue bonds, and  
10 providing for maintenance, insurance, and other matters in  
11 respect of the project.

12 "Authority" means the Illinois Finance Authority.

13 "Brownfield site photovoltaic project" means photovoltaics  
14 that are either:

15 (1) interconnected to an electric utility as defined  
16 in this Section, a municipal utility as defined in this  
17 Section, a public utility as defined in Section 3-105 of  
18 the Public Utilities Act, or an electric cooperative as  
19 defined in Section 3-119 of the Public Utilities Act and  
20 located at a site that is regulated by any of the following  
21 entities under the following programs:

22 (A) the United States Environmental Protection  
23 Agency under the federal Comprehensive Environmental  
24 Response, Compensation, and Liability Act of 1980, as  
25 amended;

26 (B) the United States Environmental Protection

1 Agency under the Corrective Action Program of the  
2 federal Resource Conservation and Recovery Act, as  
3 amended;

4 (C) the Illinois Environmental Protection Agency  
5 under the Illinois Site Remediation Program; or

6 (D) the Illinois Environmental Protection Agency  
7 under the Illinois Solid Waste Program; or

8 (2) located at the site of a coal mine that has  
9 permanently ceased coal production, permanently halted any  
10 re-mining operations, and is no longer accepting any coal  
11 combustion residues; has both completed all clean-up and  
12 remediation obligations under the federal Surface Mining  
13 and Reclamation Act of 1977 and all applicable Illinois  
14 rules and any other clean-up, remediation, or ongoing  
15 monitoring to safeguard the health and well-being of the  
16 people of the State of Illinois, as well as demonstrated  
17 compliance with all applicable federal and State  
18 environmental rules and regulations, including, but not  
19 limited, to 35 Ill. Adm. Code Part 845 and any rules for  
20 historic fill of coal combustion residuals, including any  
21 rules finalized in Subdocket A of Illinois Pollution  
22 Control Board docket R2020-019.

23 "Clean coal facility" means an electric generating  
24 facility that uses primarily coal as a feedstock and that  
25 captures and sequesters carbon dioxide emissions at the  
26 following levels: at least 50% of the total carbon dioxide

1 emissions that the facility would otherwise emit if, at the  
2 time construction commences, the facility is scheduled to  
3 commence operation before 2016, at least 70% of the total  
4 carbon dioxide emissions that the facility would otherwise  
5 emit if, at the time construction commences, the facility is  
6 scheduled to commence operation during 2016 or 2017, and at  
7 least 90% of the total carbon dioxide emissions that the  
8 facility would otherwise emit if, at the time construction  
9 commences, the facility is scheduled to commence operation  
10 after 2017. The power block of the clean coal facility shall  
11 not exceed allowable emission rates for sulfur dioxide,  
12 nitrogen oxides, carbon monoxide, particulates and mercury for  
13 a natural gas-fired combined-cycle facility the same size as  
14 and in the same location as the clean coal facility at the time  
15 the clean coal facility obtains an approved air permit. All  
16 coal used by a clean coal facility shall have high volatile  
17 bituminous rank and greater than 1.7 pounds of sulfur per  
18 million Btu ~~btu~~ content, unless the clean coal facility does  
19 not use gasification technology and was operating as a  
20 conventional coal-fired electric generating facility on June  
21 1, 2009 (the effective date of Public Act 95-1027).

22 "Clean coal SNG brownfield facility" means a facility that  
23 (1) has commenced construction by July 1, 2015 on an urban  
24 brownfield site in a municipality with at least 1,000,000  
25 residents; (2) uses a gasification process to produce  
26 substitute natural gas; (3) uses coal as at least 50% of the



1 total feedstock over the term of any sourcing agreement with a  
2 utility and the remainder of the feedstock may be either  
3 petroleum coke or coal, with all such coal having a high  
4 bituminous rank and greater than 1.7 pounds of sulfur per  
5 million Btu content unless the facility reasonably determines  
6 that it is necessary to use additional petroleum coke to  
7 deliver additional consumer savings, in which case the  
8 facility shall use coal for at least 35% of the total feedstock  
9 over the term of any sourcing agreement; and (4) captures and  
10 sequesters at least 85% of the total carbon dioxide emissions  
11 that the facility would otherwise emit.

12 "Clean coal SNG facility" means a facility that uses a  
13 gasification process to produce substitute natural gas, that  
14 sequesters at least 90% of the total carbon dioxide emissions  
15 that the facility would otherwise emit, that uses at least 90%  
16 coal as a feedstock, with all such coal having a high  
17 bituminous rank and greater than 1.7 pounds of sulfur per  
18 million Btu ~~btu~~ content, and that has a valid and effective  
19 permit to construct emission sources and air pollution control  
20 equipment and approval with respect to the federal regulations  
21 for Prevention of Significant Deterioration of Air Quality  
22 (PSD) for the plant pursuant to the federal Clean Air Act;  
23 provided, however, a clean coal SNG brownfield facility shall  
24 not be a clean coal SNG facility.

25 "Clean energy" means energy generation that is 90% or  
26 greater free of carbon dioxide emissions.

1 "Commission" means the Illinois Commerce Commission.

2 "Community renewable generation project" means an electric  
3 generating facility that:

4 (1) is powered by wind, solar thermal energy,  
5 photovoltaic cells or panels, biodiesel, crops and  
6 untreated and unadulterated organic waste biomass, and  
7 hydropower that does not involve new construction or  
8 significant expansion of hydropower dams;

9 (2) is interconnected at the distribution system level  
10 of an electric utility as defined in this Section, a  
11 municipal utility as defined in this Section that owns or  
12 operates electric distribution facilities, a public  
13 utility as defined in Section 3-105 of the Public  
14 Utilities Act, or an electric cooperative, as defined in  
15 Section 3-119 of the Public Utilities Act;

16 (3) credits the value of electricity generated by the  
17 facility to the subscribers of the facility; and

18 (4) is limited in nameplate capacity to less than or  
19 equal to 5,000 kilowatts.

20 "Costs incurred in connection with the development and  
21 construction of a facility" means:

22 (1) the cost of acquisition of all real property,  
23 fixtures, and improvements in connection therewith and  
24 equipment, personal property, and other property, rights,  
25 and easements acquired that are deemed necessary for the  
26 operation and maintenance of the facility;

1           (2) financing costs with respect to bonds, notes, and  
2 other evidences of indebtedness of the Agency;

3           (3) all origination, commitment, utilization,  
4 facility, placement, underwriting, syndication, credit  
5 enhancement, and rating agency fees;

6           (4) engineering, design, procurement, consulting,  
7 legal, accounting, title insurance, survey, appraisal,  
8 escrow, trustee, collateral agency, interest rate hedging,  
9 interest rate swap, capitalized interest, contingency, as  
10 required by lenders, and other financing costs, and other  
11 expenses for professional services; and

12           (5) the costs of plans, specifications, site study and  
13 investigation, installation, surveys, other Agency costs  
14 and estimates of costs, and other expenses necessary or  
15 incidental to determining the feasibility of any project,  
16 together with such other expenses as may be necessary or  
17 incidental to the financing, insuring, acquisition, and  
18 construction of a specific project and starting up,  
19 commissioning, and placing that project in operation.

20           "Delivery services" has the same definition as found in  
21 Section 16-102 of the Public Utilities Act.

22           "Delivery year" means the consecutive 12-month period  
23 beginning June 1 of a given year and ending May 31 of the  
24 following year.

25           "Department" means the Department of Commerce and Economic  
26 Opportunity.

1 "Director" means the Director of the Illinois Power  
2 Agency.

3 "Demand-response" means measures that decrease peak  
4 electricity demand or shift demand from peak to off-peak  
5 periods.

6 "Distributed renewable energy generation device" means a  
7 device that is:

8 (1) powered by wind, solar thermal energy,  
9 photovoltaic cells or panels, biodiesel, crops and  
10 untreated and unadulterated organic waste biomass, tree  
11 waste, and hydropower that does not involve new  
12 construction or significant expansion of hydropower dams,  
13 waste heat to power systems, or qualified combined heat  
14 and power systems;

15 (2) interconnected at the distribution system level of  
16 either an electric utility as defined in this Section, a  
17 municipal utility as defined in this Section that owns or  
18 operates electric distribution facilities, or a rural  
19 electric cooperative as defined in Section 3-119 of the  
20 Public Utilities Act;

21 (3) located on the customer side of the customer's  
22 electric meter and is primarily used to offset that  
23 customer's electricity load; and

24 (4) (blank).

25 "Energy efficiency" means measures that reduce the amount  
26 of electricity or natural gas consumed in order to achieve a

1 given end use. "Energy efficiency" includes voltage  
2 optimization measures that optimize the voltage at points on  
3 the electric distribution voltage system and thereby reduce  
4 electricity consumption by electric customers' end use  
5 devices. "Energy efficiency" also includes measures that  
6 reduce the total Btus of electricity, natural gas, and other  
7 fuels needed to meet the end use or uses.

8 "Electric utility" has the same definition as found in  
9 Section 16-102 of the Public Utilities Act.

10 "Equity investment eligible community" or "eligible  
11 community" are synonymous and mean the geographic areas  
12 throughout Illinois which would most benefit from equitable  
13 investments by the State designed to combat discrimination.  
14 Specifically, the eligible communities shall be defined as the  
15 following areas:

16 (1) R3 Areas as established pursuant to Section 10-40  
17 of the Cannabis Regulation and Tax Act, where residents  
18 have historically been excluded from economic  
19 opportunities, including opportunities in the energy  
20 sector; and

21 (2) environmental ~~Environmental~~ justice communities,  
22 as defined by the Illinois Power Agency pursuant to the  
23 Illinois Power Agency Act, where residents have  
24 historically been subject to disproportionate burdens of  
25 pollution, including pollution from the energy sector.

26 "Equity eligible persons" or "eligible persons" means

1 persons who would most benefit from equitable investments by  
2 the State designed to combat discrimination, specifically:

3 (1) persons who graduate from or are current or former  
4 participants in the Clean Jobs Workforce Network Program,  
5 the Clean Energy Contractor Incubator Program, the  
6 Illinois Climate Works Preapprenticeship Program,  
7 Returning Residents Clean Jobs Training Program, or the  
8 Clean Energy Primes Contractor Accelerator Program, and  
9 the solar training pipeline and multi-cultural jobs  
10 program created in paragraphs (a) (1) and (a) (3) of Section  
11 16-208.12 ~~16-108.21~~ of the Public Utilities Act;

12 (2) persons who are graduates of or currently enrolled  
13 in the foster care system;

14 (3) persons who were formerly incarcerated;

15 (4) persons whose primary residence is in an equity  
16 investment eligible community.

17 "Equity eligible contractor" means a business that is  
18 majority-owned by eligible persons, or a nonprofit or  
19 cooperative that is majority-governed by eligible persons, or  
20 is a natural person that is an eligible person offering  
21 personal services as an independent contractor.

22 "Facility" means an electric generating unit or a  
23 co-generating unit that produces electricity along with  
24 related equipment necessary to connect the facility to an  
25 electric transmission or distribution system.

26 "General contractor ~~Contractor~~" means the entity or

1 organization with main responsibility for the building of a  
2 construction project and who is the party signing the prime  
3 construction contract for the project.

4 "Governmental aggregator" means one or more units of local  
5 government that individually or collectively procure  
6 electricity to serve residential retail electrical loads  
7 located within its or their jurisdiction.

8 "High voltage direct current converter station" means the  
9 collection of equipment that converts direct current energy  
10 from a high voltage direct current transmission line into  
11 alternating current using Voltage Source Conversion technology  
12 and that is interconnected with transmission or distribution  
13 assets located in Illinois.

14 "High voltage direct current renewable energy credit"  
15 means a renewable energy credit associated with a renewable  
16 energy resource where the renewable energy resource has  
17 entered into a contract to transmit the energy associated with  
18 such renewable energy credit over high voltage direct current  
19 transmission facilities.

20 "High voltage direct current transmission facilities"  
21 means the collection of installed equipment that converts  
22 alternating current energy in one location to direct current  
23 and transmits that direct current energy to a high voltage  
24 direct current converter station using Voltage Source  
25 Conversion technology. "High voltage direct current  
26 transmission facilities" includes the high voltage direct

1 current converter station itself and associated high voltage  
2 direct current transmission lines. Notwithstanding the  
3 preceding, after September 15, 2021 (the effective date of  
4 Public Act 102-662) ~~this amendatory Act of the 102nd General~~  
5 ~~Assembly~~, an otherwise qualifying collection of equipment does  
6 not qualify as high voltage direct current transmission  
7 facilities unless its developer entered into a project labor  
8 agreement, is capable of transmitting electricity at 525kv  
9 with an Illinois converter station located and interconnected  
10 in the region of the PJM Interconnection, LLC, and the system  
11 does not operate as a public utility, as that term is defined  
12 in Section 3-105 of the Public Utilities Act.

13 "Index price" means the real-time energy settlement price  
14 at the applicable Illinois trading hub, such as PJM-NIHUB or  
15 MISO-IL, for a given settlement period.

16 "Indexed renewable energy credit" means a tradable credit  
17 that represents the environmental attributes of one megawatt  
18 hour of energy produced from a renewable energy resource, the  
19 price of which shall be calculated by subtracting the strike  
20 price offered by a new utility-scale wind project or a new  
21 utility-scale photovoltaic project from the index price in a  
22 given settlement period.

23 "Indexed renewable energy credit counterparty" has the  
24 same meaning as "public utility" as defined in Section 3-105  
25 of the Public Utilities Act.

26 "Local government" means a unit of local government as



1 defined in Section 1 of Article VII of the Illinois  
2 Constitution.

3 "Municipality" means a city, village, or incorporated  
4 town.

5 "Municipal utility" means a public utility owned and  
6 operated by any subdivision or municipal corporation of this  
7 State.

8 "Nameplate capacity" means the aggregate inverter  
9 nameplate capacity in kilowatts AC.

10 "Person" means any natural person, firm, partnership,  
11 corporation, either domestic or foreign, company, association,  
12 limited liability company, joint stock company, or association  
13 and includes any trustee, receiver, assignee, or personal  
14 representative thereof.

15 "Project" means the planning, bidding, and construction of  
16 a facility.

17 "Project labor agreement" means a pre-hire collective  
18 bargaining agreement that covers all terms and conditions of  
19 employment on a specific construction project and must include  
20 the following:

21 (1) provisions establishing the minimum hourly wage  
22 for each class of labor organization employee;

23 (2) provisions establishing the benefits and other  
24 compensation for each class of labor organization  
25 employee;

26 (3) provisions establishing that no strike or disputes

1 will be engaged in by the labor organization employees;

2 (4) provisions establishing that no lockout or  
3 disputes will be engaged in by the general contractor  
4 building the project; and

5 (5) provisions for minorities and women, as defined  
6 under the Business Enterprise for Minorities, Women, and  
7 Persons with Disabilities Act, setting forth goals for  
8 apprenticeship hours to be performed by minorities and  
9 women and setting forth goals for total hours to be  
10 performed by underrepresented minorities and women.

11 A labor organization and the general contractor building  
12 the project shall have the authority to include other terms  
13 and conditions as they deem necessary.

14 "Public utility" has the same definition as found in  
15 Section 3-105 of the Public Utilities Act.

16 "Qualified combined heat and power systems" means systems  
17 that, either simultaneously or sequentially, produce  
18 electricity and useful thermal energy from a single fuel  
19 source. Such systems are eligible for "renewable energy  
20 credits" in an amount equal to its total energy output where a  
21 renewable fuel is consumed or in an amount equal to the net  
22 reduction in nonrenewable fuel consumed on a total energy  
23 output basis.

24 "Real property" means any interest in land together with  
25 all structures, fixtures, and improvements thereon, including  
26 lands under water and riparian rights, any easements,

1 covenants, licenses, leases, rights-of-way, uses, and other  
2 interests, together with any liens, judgments, mortgages, or  
3 other claims or security interests related to real property.

4 "Renewable energy credit" means a tradable credit that  
5 represents the environmental attributes of one megawatt hour  
6 of energy produced from a renewable energy resource.

7 "Renewable energy resources" includes energy and its  
8 associated renewable energy credit or renewable energy credits  
9 from wind, solar thermal energy, photovoltaic cells and  
10 panels, biodiesel, anaerobic digestion, crops and untreated  
11 and unadulterated organic waste biomass, and hydropower that  
12 does not involve new construction or significant expansion of  
13 hydropower dams, waste heat to power systems, or qualified  
14 combined heat and power systems. For purposes of this Act,  
15 landfill gas produced in the State is considered a renewable  
16 energy resource. "Renewable energy resources" does not include  
17 the incineration or burning of tires, garbage, general  
18 household, institutional, and commercial waste, industrial  
19 lunchroom or office waste, landscape waste, railroad  
20 crossties, utility poles, or construction or demolition  
21 debris, other than untreated and unadulterated waste wood.  
22 "Renewable energy resources" also includes high voltage direct  
23 current renewable energy credits and the associated energy  
24 converted to alternating current by a high voltage direct  
25 current converter station to the extent that: (1) the  
26 generator of such renewable energy resource contracted with a

1 third party to transmit the energy over the high voltage  
2 direct current transmission facilities, and (2) the  
3 third-party contracting for delivery of renewable energy  
4 resources over the high voltage direct current transmission  
5 facilities have ownership rights over the unretired associated  
6 high voltage direct current renewable energy credit.

7 "Retail customer" has the same definition as found in  
8 Section 16-102 of the Public Utilities Act.

9 "Revenue bond" means any bond, note, or other evidence of  
10 indebtedness issued by the Authority, the principal and  
11 interest of which is payable solely from revenues or income  
12 derived from any project or activity of the Agency.

13 "Sequester" means permanent storage of carbon dioxide by  
14 injecting it into a saline aquifer, a depleted ~~gas~~ reservoir,  
15 or other pore space ~~an oil reservoir, directly or through an~~  
16 ~~enhanced oil recovery process that may involve intermediate~~  
17 ~~storage, regardless of whether these activities are conducted~~  
18 ~~by a clean coal facility, a clean coal SNG facility, a clean~~  
19 ~~coal SNG brownfield facility, or a party with which a clean~~  
20 ~~coal facility, clean coal SNG facility, or clean coal SNG~~  
21 ~~brownfield facility has contracted for such purposes.~~

22 "Service area" has the same definition as found in Section  
23 16-102 of the Public Utilities Act.

24 "Settlement period" means the period of time utilized by  
25 MISO and PJM and their successor organizations as the basis  
26 for settlement calculations in the real-time energy market.

1 "Sourcing agreement" means (i) in the case of an electric  
2 utility, an agreement between the owner of a clean coal  
3 facility and such electric utility, which agreement shall have  
4 terms and conditions meeting the requirements of paragraph (3)  
5 of subsection (d) of Section 1-75, (ii) in the case of an  
6 alternative retail electric supplier, an agreement between the  
7 owner of a clean coal facility and such alternative retail  
8 electric supplier, which agreement shall have terms and  
9 conditions meeting the requirements of Section 16-115(d) (5) of  
10 the Public Utilities Act, and (iii) in case of a gas utility,  
11 an agreement between the owner of a clean coal SNG brownfield  
12 facility and the gas utility, which agreement shall have the  
13 terms and conditions meeting the requirements of subsection  
14 (h-1) of Section 9-220 of the Public Utilities Act.

15 "Strike price" means a contract price for energy and  
16 renewable energy credits from a new utility-scale wind project  
17 or a new utility-scale photovoltaic project.

18 "Subscriber" means a person who (i) takes delivery service  
19 from an electric utility, and (ii) has a subscription of no  
20 less than 200 watts to a community renewable generation  
21 project that is located in the electric utility's service  
22 area. No subscriber's subscriptions may total more than 40% of  
23 the nameplate capacity of an individual community renewable  
24 generation project. Entities that are affiliated by virtue of  
25 a common parent shall not represent multiple subscriptions  
26 that total more than 40% of the nameplate capacity of an

1 individual community renewable generation project.

2 "Subscription" means an interest in a community renewable  
3 generation project expressed in kilowatts, which is sized  
4 primarily to offset part or all of the subscriber's  
5 electricity usage.

6 "Substitute natural gas" or "SNG" means a gas manufactured  
7 by gasification of hydrocarbon feedstock, which is  
8 substantially interchangeable in use and distribution with  
9 conventional natural gas.

10 "Total resource cost test" or "TRC test" means a standard  
11 that is met if, for an investment in energy efficiency or  
12 demand-response measures, the benefit-cost ratio is greater  
13 than one. The benefit-cost ratio is the ratio of the net  
14 present value of the total benefits of the program to the net  
15 present value of the total costs as calculated over the  
16 lifetime of the measures. A total resource cost test compares  
17 the sum of avoided electric utility costs, representing the  
18 benefits that accrue to the system and the participant in the  
19 delivery of those efficiency measures and including avoided  
20 costs associated with reduced use of natural gas or other  
21 fuels, avoided costs associated with reduced water  
22 consumption, and avoided costs associated with reduced  
23 operation and maintenance costs, as well as other quantifiable  
24 societal benefits, to the sum of all incremental costs of  
25 end-use measures that are implemented due to the program  
26 (including both utility and participant contributions), plus

1 costs to administer, deliver, and evaluate each demand-side  
2 program, to quantify the net savings obtained by substituting  
3 the demand-side program for supply resources. In calculating  
4 avoided costs of power and energy that an electric utility  
5 would otherwise have had to acquire, reasonable estimates  
6 shall be included of financial costs likely to be imposed by  
7 future regulations and legislation on emissions of greenhouse  
8 gases. In discounting future societal costs and benefits for  
9 the purpose of calculating net present values, a societal  
10 discount rate based on actual, long-term Treasury bond yields  
11 should be used. Notwithstanding anything to the contrary, the  
12 TRC test shall not include or take into account a calculation  
13 of market price suppression effects or demand reduction  
14 induced price effects.

15 "Utility-scale solar project" means an electric generating  
16 facility that:

17 (1) generates electricity using photovoltaic cells;  
18 and

19 (2) has a nameplate capacity that is greater than  
20 5,000 kilowatts.

21 "Utility-scale wind project" means an electric generating  
22 facility that:

23 (1) generates electricity using wind; and

24 (2) has a nameplate capacity that is greater than  
25 5,000 kilowatts.

26 "Waste Heat to Power Systems" means systems that capture

1 and generate electricity from energy that would otherwise be  
2 lost to the atmosphere without the use of additional fuel.

3 "Zero emission credit" means a tradable credit that  
4 represents the environmental attributes of one megawatt hour  
5 of energy produced from a zero emission facility.

6 "Zero emission facility" means a facility that: (1) is  
7 fueled by nuclear power; and (2) is interconnected with PJM  
8 Interconnection, LLC or the Midcontinent Independent System  
9 Operator, Inc., or their successors.

10 (Source: P.A. 102-662, eff. 9-15-21; revised 6-2-22.)

11 Section 905. The State Finance Act is amended by adding  
12 Section 5.992 as follows:

13 (30 ILCS 105/5.992 new)

14 Sec. 5.992. The Carbon Transportation and Sequestration  
15 Readiness Fund.

16 Section 910. The Carbon Dioxide Transportation and  
17 Sequestration Act is amended by changing Sections 10, 15, and  
18 20 as follows:

19 (220 ILCS 75/10)

20 Sec. 10. Definitions. As used in this Act:

21 "Carbon dioxide pipeline" or "pipeline" has the meaning  
22 ascribed to that term in Section 10 of the Carbon Dioxide



1 Transport and Storage Protections Act ~~means the in-state~~  
2 ~~portion of a pipeline, including appurtenant facilities,~~  
3 ~~property rights, and easements, that are used exclusively for~~  
4 ~~the purpose of transporting carbon dioxide to a point of sale,~~  
5 ~~storage, enhanced oil recovery, or other carbon management~~  
6 ~~application.~~

7 "Clean coal facility" has the meaning ascribed to that  
8 term in Section 1-10 of the Illinois Power Agency Act.

9 "Clean coal SNG facility" has the meaning ascribed to that  
10 term in Section 1-10 of the Illinois Power Agency Act.

11 "Commission" means the Illinois Commerce Commission.

12 "Sequester" has the meaning ascribed to that term in  
13 Section 1-10 of the Illinois Power Agency Act.

14 "Transportation" has the meaning ascribed to that term in  
15 Section 10 of the Carbon Dioxide Transport and Storage  
16 Protections Act ~~means the physical movement of carbon dioxide~~  
17 ~~by pipeline conducted for a person's own use or account or the~~  
18 ~~use or account of another person or persons.~~

19 (Source: P.A. 97-534, eff. 8-23-11.)

20 (220 ILCS 75/15)

21 Sec. 15. Scope. This Act applies to the application  
22 process for the issuance of a certificate of authority by an  
23 owner or operator of a pipeline designed, constructed, and  
24 operated to transport and to sequester carbon dioxide ~~produced~~  
25 ~~by a clean coal facility, by a clean coal SNG facility, or by~~

1 ~~any other source that will result in the reduction of carbon~~  
2 ~~dioxide emissions from that source.~~

3 (Source: P.A. 97-534, eff. 8-23-11.)

4 (220 ILCS 75/20)

5 Sec. 20. Application.

6 (a) No person or entity may construct, operate, or repair  
7 a carbon dioxide pipeline unless the person or entity  
8 possesses a certificate of authority.

9 (a-5) Prior to filing an application for a certificate of  
10 authority with the Commission, a person or entity seeking such  
11 a certificate must:

12 (1) hold at least one informational public meeting in  
13 each county in which the pipeline it seeks would be  
14 located, at which it must: (i) present a map of the  
15 proposed pipeline route under consideration; (ii) provide,  
16 at a minimum, information about the diameter of the  
17 pipeline it intends to propose; the contents, flow rate,  
18 pressure, and temperature of the pipeline and the  
19 ancillary equipment associated with the pipeline; (iii)  
20 present any emergency response plan it has drafted or is  
21 preparing; and (iv) be prepared to answer questions from  
22 the public concerning the pipeline;

23 (2) consult with the boards of all counties and, if  
24 the proposed pipeline would pass through any  
25 municipalities, all municipal governments through which

1       the pipeline would pass on the following subjects: zoning;  
2       emergency response planning; road crossings, use, repair,  
3       and bonding; right-of-way agreements for county and  
4       municipal land; and pipeline abandonment. During at least  
5       one public meeting of the county boards or municipal  
6       bodies with which the consultation is taking place, the  
7       person or entity planning to seek a certificate of  
8       authority must provide a presentation on the subjects of  
9       consultation and seek public input; and

10       (3) compile an accurate, verified list of all occupied  
11       residences, businesses, schools, day cares, and health  
12       care facilities located within 1.5 miles of its proposed  
13       pipeline route, which list it shall submit, prior to  
14       filing its application, to the county and municipal  
15       governments of any county and municipality through which  
16       the proposed pipeline will pass.

17       (b) The Commission, after a hearing, may grant an  
18 application for a certificate of authority authorizing the  
19 construction and operation of a carbon dioxide pipeline if it  
20 makes a specific written finding as to each of the following:

21           (1) the application was properly filed;

22           (2) the applicant is fit, willing, and able to  
23 construct and operate the pipeline in compliance with this  
24 Act and with Commission regulations and orders of the  
25 Commission or any applicable federal agencies;

26           (3) the applicant has entered into an agreement with a

1 clean coal facility, a clean coal SNG facility, or any  
2 other source that will result in the reduction of carbon  
3 dioxide emissions from that source;

4 (4) the applicant has filed with the Pipeline and  
5 Hazardous Materials Safety Administration of the U.S.  
6 Department of Transportation all forms required by that  
7 agency in advance of constructing a carbon dioxide  
8 pipeline;

9 (5) the applicant has filed with the U.S. Army Corps  
10 of Engineers all applications for permits required by that  
11 agency in advance of constructing a carbon dioxide  
12 pipeline;

13 (6) the applicant has entered into an agreement with  
14 the Illinois Department of Agriculture that governs the  
15 mitigation of agricultural impacts associated with the  
16 construction of the proposed pipeline;

17 (7) the applicant possesses the financial, managerial,  
18 legal, and technical qualifications necessary to construct  
19 and operate the proposed carbon dioxide pipeline; ~~and~~

20 (7.5) the applicant has demonstrated that its proposed  
21 pipeline route would satisfy the setback mandates  
22 established in Section 9.19 of the Environmental  
23 Protection Act, as amended, or that the applicant has  
24 obtained an approved variance or adjusted standard from  
25 those setback requirements from the Illinois Pollution  
26 Control Board;

1           (7.10) the applicant has submitted proof of receipt by  
2           county and municipal government officials of counties and  
3           municipalities through which the proposed pipeline will  
4           pass of the list of all occupied residences, businesses,  
5           schools, day cares, and health care facilities located  
6           within 2 miles of its proposed pipeline route;

7           (7.15) the applicant has submitted proof that it has  
8           obtained easements or title from all persons owning any  
9           portion of the property the applicant seeks to utilize for  
10           the construction, maintenance, or operation of the  
11           proposed carbon dioxide pipeline;

12           (7.20) the applicant has provided an analysis of  
13           geohazards, including, but not limited to, slope  
14           instability, frost heave, soil settlement, erosion,  
15           earthquakes, mine subsidence, or other dynamic geologic,  
16           edaphic, and meteorological conditions along the proposed  
17           pipeline route and has demonstrated that the proposed  
18           route avoids geohazards to the maximum extent possible;  
19           and

20           (8) the proposed pipeline is consistent with the  
21           public interest and ~~public benefit, and legislative~~  
22           ~~purpose as set forth in this Act.~~ In addition to any other  
23           evidence the Commission may consider on this specific  
24           finding, the Commission shall consider the following:

25                   (A) any evidence of the effect of the pipeline  
26                   upon the economy, infrastructure, environment, and

1 public safety presented by local governmental units  
2 that will be affected by the proposed pipeline route;

3 (B) any evidence of the effect of the pipeline  
4 upon property values presented by property owners who  
5 will be affected by the proposed pipeline or facility,  
6 provided that the Commission need not hear evidence as  
7 to the actual valuation of property such as that as  
8 would be presented to and determined by the courts  
9 under the Eminent Domain Act;

10 (C) any evidence presented by the Department of  
11 Commerce and Economic Opportunity regarding the  
12 current and future local, State-wide, or regional  
13 economic effect, direct or indirect, of the proposed  
14 pipeline or facility including, but not limited to,  
15 ability of the State to attract economic growth, meet  
16 future energy requirements, and ensure compliance with  
17 environmental requirements and goals;

18 (D) any evidence addressing the factors described  
19 in items (1) through (8) of this subsection (b) or  
20 other relevant factors that is presented by any other  
21 State agency, the applicant, a party, or other entity  
22 that participates in the proceeding, including  
23 evidence presented by the Commission's staff; and

24 (E) any evidence presented by any State or federal  
25 governmental entity as to how the proposed pipeline  
26 will affect the security, stability, and reliability

1           of energy.

2           In its written order, the Commission shall address all of  
3 the evidence presented, and if the order is contrary to any of  
4 the evidence, the Commission shall state the reasons for its  
5 determination with regard to that evidence.

6           (c) When an applicant files its application for a  
7 certificate of authority with the Commission, it shall provide  
8 notice to each local government where the proposed pipeline  
9 will be located and include a map of the proposed pipeline  
10 route. The applicant shall also publish notice in a newspaper  
11 of general circulation in each county where the proposed  
12 pipeline is located.

13           (d) An application for a certificate of authority filed  
14 pursuant to this Section shall request either that the  
15 Commission review and approve a specific route for a carbon  
16 dioxide pipeline, or that the Commission review and approve a  
17 project route width that identifies the areas in which the  
18 pipeline would be located, with such width ranging from the  
19 minimum width required for a pipeline right-of-way up to 200  
20 feet in width. A map of the route or route width shall be  
21 included in the application. The purpose for allowing the  
22 option of review and approval of a project route width is to  
23 provide increased flexibility during the construction process  
24 to accommodate specific landowner requests, avoid  
25 environmentally sensitive areas, or address special  
26 environmental permitting requirements.

1 (e) The Commission's rules shall ensure that notice of an  
2 application for a certificate of authority is provided within  
3 30 days after filing to the landowners along a proposed  
4 project route, or to the potentially affected landowners  
5 within a proposed project route width, using the notification  
6 procedures set forth in the Commission's rules. If the  
7 Commission grants approval of a project route width as opposed  
8 to a specific project route, then the applicant must, as it  
9 finalizes the actual pipeline alignment within the project  
10 route width, file its final list of affected landowners with  
11 the Commission at least 14 days in advance of beginning  
12 construction on any tract within the project route width and  
13 also provide the Commission with at least 14 days' notice  
14 before filing a complaint for eminent domain in the circuit  
15 court with regard to any tract within the project route width.

16 (f) The Commission shall make its determination on any  
17 application for a certificate of authority filed pursuant to  
18 this Section and issue its final order within 11 months after  
19 the date that the application is filed. The Commission's  
20 failure to act within this time period shall not be deemed an  
21 approval or denial of the application.

22 (g) A final order of the Commission granting a certificate  
23 of authority pursuant to this Act shall not be issued until the  
24 applicant has obtained ~~be conditioned upon the applicant~~  
25 ~~obtaining~~ all required permits or approvals from the Pipeline  
26 and Hazardous Materials Safety Administration of the U.S.



1 Department of Transportation, U.S. Army Corps of Engineers,  
2 and Illinois Department of Agriculture, in addition to all  
3 other permits and approvals necessary for the construction and  
4 operation of the pipeline prior to the start of any  
5 construction. The final order must specifically prohibit the  
6 start of any construction until all such permits and approvals  
7 have been obtained.

8 (h) Within 6 months after the Commission's entry of an  
9 order approving either a specific route or a project route  
10 width under this Section, the owner or operator of the carbon  
11 dioxide pipeline that receives that order may file  
12 supplemental applications for minor route deviations outside  
13 the approved project route width, allowing for additions or  
14 changes to the approved route to address environmental  
15 concerns encountered during construction or to accommodate  
16 landowner requests. The supplemental application shall  
17 specifically detail the environmental concerns or landowner  
18 requests prompting the route changes, including the names of  
19 any landowners or entities involved. Notice of a supplemental  
20 application shall be provided to any State agency or unit of  
21 local government that appeared in the original proceeding and  
22 to any landowner affected by the proposed route deviation at  
23 the time that supplemental application is filed. The route  
24 deviations shall be approved by the Commission no sooner than  
25 90 days after all interested parties receive notice of the  
26 supplemental application, unless a written objection is filed

1 to the supplemental application within 45 days after such  
2 notice is received. If a written objection is filed, then the  
3 Commission shall issue an order either granting or denying the  
4 route deviation within 90 days after the filing of the  
5 objection. Hearings on any such supplemental application shall  
6 be limited to the reasonableness of the specific variance  
7 proposed, and the issues of the public interest and benefit of  
8 the project or fitness of the applicant shall be considered  
9 only to the extent that the route deviation has raised new  
10 concerns with regard to those issues.

11 (i) A certificate of authority to construct and operate a  
12 carbon dioxide pipeline issued by the Commission shall contain  
13 and include ~~all of the following: (1)~~ a grant of authority to  
14 construct and operate a carbon dioxide pipeline as requested  
15 in the application, subject to the laws of this State, ~~and~~

16 ~~(2) a limited grant of authority to take and acquire~~  
17 ~~an easement in any property or interest in property for~~  
18 ~~the construction, maintenance, or operation of a carbon~~  
19 ~~dioxide pipeline in the manner provided for the exercise~~  
20 ~~of the power of eminent domain under the Eminent Domain~~  
21 ~~Act. The limited grant of authority shall be restricted~~  
22 ~~to, and exercised solely for, the purpose of siting,~~  
23 ~~rights of way, and easements appurtenant, including~~  
24 ~~construction and maintenance. The applicant shall not~~  
25 ~~exercise this power until it has used reasonable and good~~  
26 ~~faith efforts to acquire the property or easement thereto.~~

~~The applicant may thereafter use this power when the applicant determines that the easement is necessary to avoid unreasonable delay or economic hardship to the progress of activities carried out pursuant to the certificate of authority.~~

(Source: P.A. 97-534, eff. 8-23-11.)

Section 915. The Environmental Protection Act is amended by changing Sections 21, 39, and 40 and by adding Sections 3.121, 3.132, 3.133, 3.134, 3.136, 3.446, 3.447, 9.19, 9.20, and 22.63 as follows:

(415 ILCS 5/3.121 new)

Sec. 3.121. Area of review. "Area of review" means the region surrounding the geologic carbon dioxide sequestration project where groundwater classified as Class 1, Class 2, or Class 3 under Subtitle F of Title 35 of the Illinois Administrative Code may be endangered by the injection of carbon dioxide. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and displaced fluids and is based on available site characterization, monitoring, and operational data specified in the Board's rules implementing subsection (g) of Section 22.63.

1 (415 ILCS 5/3.132 new)

2 Sec. 3.132. Carbon dioxide capture project. "Carbon  
3 dioxide capture project" means a project that uses a process  
4 to separate carbon dioxide from industrial or energy-related  
5 sources, other than oil or gas production from a well, and  
6 produces a concentrated fluid of carbon dioxide. "Carbon  
7 dioxide capture project" includes carbon dioxide captured as  
8 part of a research and development project, or funded by  
9 research and development funding, unless the operator  
10 demonstrates to the satisfaction of the Agency that it meets  
11 the criteria for exclusion from this definition set out by the  
12 Board in rules developed pursuant to subsection (g) of Section  
13 9.20.

14 (415 ILCS 5/3.133 new)

15 Sec. 3.133. Carbon dioxide pipeline. "Carbon dioxide  
16 pipeline" has the meaning ascribed to that term in Section 10  
17 of the Carbon Dioxide Transportation and Sequestration Act.

18 (415 ILCS 5/3.134 new)

19 Sec. 3.134. Concentrated carbon dioxide fluid.  
20 "Concentrated carbon dioxide fluid" means a fluid that  
21 contains concentrated carbon dioxide that is proportionately  
22 greater than the ambient atmospheric concentration of carbon  
23 dioxide.

1 (415 ILCS 5/3.136 new)

2 Sec. 3.136. Confining Zone. "Confining zone" means a  
3 geologic formation, group of formations, or part of a  
4 formation stratigraphically overlying the zone(s) of carbon  
5 dioxide injection that acts as a barrier to fluid movement.

6 (415 ILCS 5/3.446 new)

7 Sec. 3.446. Sequestration. "Sequestration" has the meaning  
8 ascribed to that term in Section 10 of the Carbon Dioxide  
9 Transport and Storage Protections Act.

10 (415 ILCS 5/3.447 new)

11 Sec. 3.447. Sequestration facility. "Sequestration  
12 facility" has the meaning ascribed to that term in Section 10  
13 of the Carbon Dioxide Transport and Storage Protections Act.

14 (415 ILCS 5/9.19 new)

15 Sec. 9.19. Setbacks from carbon dioxide pipelines.

16 (a) Legislative Findings. The General Assembly finds that:

17 (1) Carbon dioxide is an asphyxiant. A leak of carbon  
18 dioxide from a carbon dioxide pipeline poses a risk of  
19 grave harm to the human health and the environment.

20 (2) Setbacks from occupied structures and high-density  
21 areas are necessary to protect against potential harm from  
22 leaks from carbon dioxide pipelines.

23 (b) No carbon dioxide pipeline, pump, or compressor

1 station may be located:

2 (1) any closer than one mile of an occupied  
3 residential property, except that if the occupied  
4 residential property is part of a development that  
5 includes 10 or more occupied residential properties, the  
6 carbon dioxide pipeline may not be located within 1.5  
7 miles of the home.

8 (2) any closer than one mile of a commercial property  
9 containing businesses with fewer than ten employees.

10 (3) any closer than one mile of livestock facilities  
11 containing 100 or more animals;

12 (4) any closer than 1.5 miles of a residential,  
13 commercial, or industrial structure or facility that  
14 typically contain ten or more persons;

15 (5) any closer than 2 miles of a structure containing  
16 10 or more persons with limited mobility, including, but  
17 not limited to, nursing homes and hospitals.

18 (6) any closer than 2 miles of structures with  
19 permitted occupancies of 100 or more persons, including,  
20 but not limited to, schools, places of worship, shopping,  
21 and entertainment facilities.

22 (c) Setback distances from carbon dioxide pipelines are  
23 measured from the center line of the carbon dioxide pipeline.  
24 Setback distances from pumps and compressor stations are  
25 measured from the property line of the pump or compressor  
26 station.

1       (d) Local governments may require setbacks greater than  
2 the minimum setbacks established in this Section.

3       (e) No adjusted standard, variance, or other regulatory  
4 relief otherwise available under this Act may be granted from  
5 the minimum setback mandates of this Section unless, in  
6 addition to satisfying the general requirements for an  
7 adjusted standard under Section 28.1 or the standards for a  
8 variance under Section 35, as applicable, a person seeking to  
9 build or operate a carbon dioxide pipeline includes in the  
10 petition for an adjusted standard or variance:

11           (1) computational fluid dynamic computer modeling  
12 showing the dispersion of a plume of carbon dioxide  
13 following a worst-case rupture of the proposed carbon  
14 dioxide pipeline, considering such rupture in both typical  
15 and still-air weather conditions in topography typical in  
16 the county;

17           (2) data and analysis demonstrating that the carbon  
18 dioxide pipeline is proposed to be constructed a  
19 sufficient distance from occupied structures so that  
20 carbon dioxide concentrations in or near occupied  
21 structures will not intoxicate, asphyxiate, or otherwise  
22 put harm the health of the humans or livestock therein;  
23 and

24           (3) a discussion explaining the reasons that the  
25 setbacks established in this Section are not practicable.

1 (415 ILCS 5/9.20 new)

2 Sec. 9.20. Carbon dioxide capture.

3 (a) The General Assembly finds that:

4 (1) The capture of carbon dioxide from industrial  
5 facilities, including, but not limited to, ethanol plants  
6 and methane processing facilities, and electric-generation  
7 facilities requires a significant amount of power to  
8 undertake, the generation of which can increase harmful  
9 air and water pollutants.

10 (2) The capture of carbon dioxide generally requires  
11 significant volumes of water which otherwise could be  
12 utilized for domestic, agricultural, recreational, or  
13 industrial uses.

14 (3) The capture of carbon dioxide from industrial and  
15 electric-generation facilities has often failed to meet  
16 objectives for capture and thus allowed more carbon  
17 dioxide pollution into the atmosphere than proposed.

18 (4) The State has a long-standing policy to restore,  
19 protect, and enhance the environment, including the purity  
20 of the air, land, and waters, including groundwaters, of  
21 this State.

22 (5) A clean environment is essential to the growth and  
23 well-being of this State.

24 (6) The capture of carbon dioxide from industrial and  
25 electric-generation facilities will not achieve the  
26 State's longstanding policy to restore, protect, and



1 enhance the environment unless clear standards are adopted  
2 to require reduction of air and water pollution associated  
3 with carbon capture, to limit water use when other  
4 important uses are in jeopardy, and to ensure carbon  
5 capture does not interfere with Illinois reaching its  
6 clean energy goals; and

7 (7) meaningful participation of State residents,  
8 especially vulnerable populations who may be affected by  
9 regulatory actions, is critical to ensure that  
10 environmental justice considerations are incorporated in  
11 the development of, decision-making related to, and  
12 implementation of environmental laws and rulemaking that  
13 protects and improves the well-being of communities in  
14 this State that bear disproportionate burdens imposed by  
15 environmental pollution.

16 Therefore, the purpose of this Section is to promote a  
17 healthful environment, including clean water, air, and land,  
18 meaningful public involvement, and to ensure only responsible  
19 capture of carbon dioxide occurs in the State, so as to protect  
20 public health and to prevent pollution of the environment.

21 The provisions of this Section shall be liberally  
22 construed to carry out the purposes of this Section.

23 (b) Permit required. Any person seeking to construct or  
24 operate a carbon dioxide capture project in the State must  
25 first obtain a permit from the Agency in accordance with the  
26 rules developed pursuant to subsection (g).

1       (c) Environmental impact analysis. Any person seeking to  
2 capture carbon dioxide from any industrial or  
3 electric-generation facility in the State must, before seeking  
4 a permit in accordance with the rules developed pursuant to  
5 subsection (g), first conduct an environmental impact  
6 analysis. That environmental impact analysis must:

7           (1) include a statement of purpose and need for the  
8 proposed carbon capture project;

9           (2) include a GHG inventory analysis, including Scope  
10 1, 2, and 3 emissions as set forth in United States  
11 Environmental Protection Agency guidance, of the total  
12 greenhouse gas emissions associated with the carbon  
13 dioxide capture project, together with a demonstration  
14 that the Scope 1, 2, and 3 greenhouse gas emissions  
15 associated with the carbon dioxide capture project,  
16 converted into carbon dioxide equivalent, consistent with  
17 the United States Environmental Protection Agency rules  
18 and guidance, will not exceed the total amount of  
19 greenhouse gas emissions associated with the carbon  
20 dioxide capture project on an annual basis for each year  
21 the project remains in operation;

22           (3) include a water impacts analysis that details: (i)  
23 the water sources likely to be impacted by the capture of  
24 carbon dioxide from the facility; (ii) current uses of  
25 those water sources; (iii) potential or certain impacts to  
26 those water sources from capture of carbon dioxide from

1 the facility, including impacts to water quantity,  
2 quality, and current uses; (iv) duration of the impacts to  
3 water associated with the capture of carbon dioxide from  
4 the facility; and (v) methods the applicant will use to  
5 minimize both water use and impacts to water quality  
6 associated with the capture dioxide capture project;

7 (4) include an alternatives analysis that evaluates  
8 other reasonable alternatives for reducing the same  
9 quantity of carbon dioxide as is proposed to be captured  
10 at the facility, including: (i) if the carbon dioxide is  
11 proposed to be captured at a facility that generates  
12 electricity, energy-generation alternatives such as  
13 renewable energy, energy storage, or energy efficiency;  
14 (ii) if the carbon dioxide is proposed to be captured at a  
15 facility that produces fuel for vehicles or equipment,  
16 alternatives such as the use of electric vehicles; and  
17 (iii) if the carbon dioxide is proposed to be captured at  
18 an industrial facility, alternative industrial processes  
19 that could reduce the amount of carbon dioxide generated  
20 from that industry. For each alternative identified, the  
21 person seeking to capture carbon dioxide shall complete a  
22 greenhouse gas emissions inventory and analysis of the  
23 alternative consistent with subsection (c) of this Section  
24 and a water impacts analysis, addressing the factors set  
25 out in subsection (c) of this Section; and

26 (5) be developed with public input, including by

1 making a draft version of the analysis available on a  
2 public website for not less than 60 days and accepting  
3 comments on the proposed analysis for the entirety of that  
4 period, together with a public meeting at least 14 days  
5 after the posting of the draft on the public website which  
6 provides a meaningful opportunity for the public to ask  
7 questions, have those questions answered, and provide  
8 comment on the draft. The final environmental analysis  
9 must include responses to public comments, identify all  
10 changes to the analysis made in response to those  
11 comments, and be made available to the public on a public  
12 website.

13 (d) Conditions on water use. No permit for the capture of  
14 carbon dioxide may be issued unless:

15 (1) the Illinois State Water Survey has reviewed the  
16 water impacts analysis required under subsection (c) and,  
17 taking into consideration that analysis, information  
18 available to the Illinois State Water Survey concerning  
19 water supply and uses, and public comment, concluded that  
20 the proposed carbon capture project will not have  
21 significant adverse effects on water supply or current or  
22 future potential uses of the water source; and

23 (2) the permit sets out conditions, determined in  
24 consultation with the Illinois State Water Survey and  
25 taking into consideration public comments, under which the  
26 project operator must reduce the volume or rate or water

1       that may be utilized for the capture of carbon dioxide, as  
2       well as conditions under which the use of water for carbon  
3       capture must be halted altogether.

4       (e) Air pollution reduction requirements. No permit for  
5       the capture of carbon dioxide may be issued unless:

6               (1) The permit applicant demonstrates that there will  
7               be zero non-carbon dioxide air pollution emissions  
8               associated with the carbon dioxide capture project. This  
9               includes both emissions emitted directly by the operation  
10              of the carbon dioxide capture equipment itself and any  
11              increase in emissions at the facility from which carbon  
12              dioxide is captured relative to the baseline, as defined  
13              below, following installation of the carbon dioxide  
14              capture process. The applicant may make this demonstration  
15              by: (i) demonstrating that pollution control technology  
16              will be installed and operated, or existing control  
17              technology will be operated, so as to eliminate any  
18              non-carbon dioxide air emissions associated with the use  
19              of carbon capture; or (ii) demonstrating that the facility  
20              will reduce operations sufficient to eliminate any  
21              non-carbon dioxide air emissions associated with the use  
22              of carbon capture.

23              (2) The Board shall establish requirements for  
24              determining baseline emissions from each industrial or  
25              electric-generation facility for purposes of determining  
26              which non-carbon dioxide air emissions are associated with

1 the use of carbon capture at those facilities. For  
2 existing facilities, the baseline shall be calculated  
3 using the 12-month average of emissions for the 3 12-month  
4 periods prior to January 31, 2023. For new facilities, the  
5 baseline shall be determined using the Best Available  
6 Control Technology for the relevant air pollutants and  
7 facility and assuming fuel consumption and hours of  
8 operation of the facility consistent with that of  
9 facilities of similar size.

10 No permit for a carbon dioxide capture project may be  
11 issued unless the carbon dioxide capture permit applicant  
12 demonstrates that the project will capture an annual average  
13 of no less than 90% of total carbon dioxide emissions from the  
14 facility.

15 No permit for a carbon dioxide capture project may be  
16 issued unless the permit disallows all non carbon-dioxide air  
17 emissions associated with the use of carbon capture and  
18 specifies the mechanism or mechanisms by which the permittee  
19 must meet that condition.

20 (f) No permit for a carbon dioxide capture project may be  
21 issued unless the operator can identify the end use or  
22 destination of all carbon dioxide streams from the proposed  
23 project. If those destinations include sequestration within  
24 the State, the operator must demonstrate that the  
25 sequestration site is permitted in accordance with Section  
26 22.63.

1       (g) The Board shall adopt rules establishing permit  
2 requirements and other standards for carbon dioxide capture  
3 projects. Not later than one year after the effective date of  
4 this amendatory Act of the 103rd General Assembly, the Agency  
5 shall propose, and not later than 2 years after receipt of the  
6 Agency's proposal the Board shall adopt, rules under this  
7 Section. The rules must, at a minimum:

8           (1) be no less protective than federal and existing  
9 State requirements for air pollution and water pollution;

10          (2) specify the minimum contents of applications for a  
11 permit for the capture of carbon dioxide, which shall  
12 include: the environmental impacts analyses required by  
13 subsection (c); identification of whether the proposed  
14 carbon capture project would take place in an area of  
15 environmental justice concern; and documentation and  
16 analyses sufficient to demonstrate compliance with all  
17 applicable rules for capture of carbon dioxide from  
18 industrial and electric-generation facilities developed  
19 pursuant to this Section;

20          (3) specify: the frequency at which permits for the  
21 capture of carbon dioxide expire and must be renewed; the  
22 circumstances under which a permittee must seek a permit  
23 modification; and the circumstances under which the Agency  
24 may temporarily or permanently revoke a permit for the  
25 capture of carbon dioxide;

26          (4) specify standards for review, approval, and denial

1 by the Agency of applications for a permit to capture  
2 carbon dioxide. The standards for denial must include, but  
3 are not limited to, failure of the applicant to submit an  
4 environmental impacts analysis meeting the requirements of  
5 subsection (c) or to satisfy subsection (e);

6 (6) specify: meaningful public participation  
7 procedures for the issuance of permits for the capture of  
8 carbon dioxide, including, but not limited to, public  
9 notice of the submission of permit applications; posting  
10 on a public website of the full permit application, the  
11 draft and final permitting actions by the Agency and the  
12 Agency's response to comments; an opportunity for the  
13 submission of public comments; an opportunity for a public  
14 hearing prior to permit issuance; and a summary and  
15 response of the comments prepared by the Agency. When the  
16 capture of carbon dioxide is proposed to take place in an  
17 area of environmental justice concern, the rules shall  
18 specify further opportunities for public participation,  
19 including but not limited to public meetings, translations  
20 of relevant documents into other languages for residents  
21 with limited English proficiency, and interpretation  
22 services at public meetings and hearings;

23 (7) specify a procedure to identify areas of  
24 environmental justice concern in relation to sequestration  
25 facilities;

26 (8) set out requirements for frequent, comprehensive



1 reporting by permittees to the Agency, including, but not  
2 limited to,: (i) the non-carbon dioxide air emissions  
3 associated with the use of carbon capture, including, but  
4 not limited to, those emissions resulting from the use of  
5 fuel to power the carbon capture process; (ii) greenhouse  
6 gas emissions associated with the use of carbon capture;  
7 (iii) the total amount, in tons, of carbon dioxide  
8 captured at the facility; (iv) the total amount, in tons,  
9 of carbon dioxide not captured and released into the  
10 atmosphere at the facility; (v) the date, time, duration,  
11 cause, and amount of carbon dioxide released rather than  
12 captured as a result of all outages or downtime of capture  
13 equipment at the facility; (vi) information concerning  
14 water use and impacts to water supply and uses associated  
15 with the use of carbon capture at the facility; and (vii)  
16 the end use and destination of all carbon dioxide streams  
17 from the project;

18 (9) establish criteria for the exclusion from  
19 permitting requirements of carbon capture projects  
20 performed for the purpose of, or financed by funding for,  
21 research and development. Such criteria shall ensure that  
22 only those projects that capture small amounts of carbon  
23 dioxide and pose minimal risk to human health and the  
24 environmental qualify for the exclusion; and

25 (10) specify whether the permit requirements for  
26 carbon dioxide capture set out in those rules may be added

1       to the requirements for a permit that a carbon dioxide  
2       capture permit applicant is otherwise required to obtain,  
3       or whether the applicant must obtain a separate permit for  
4       the capture of carbon dioxide.

5       (h) The permit requirements set forth in this Section are  
6       in addition to any requirements set forth under other State or  
7       federal law, including, but not limited to, the Clean Air Act,  
8       the Clean Water Act, the Resource Conservation and Recovery  
9       Act, and the Safe Water Drinking Act.

10       (i) No adjusted standard, variance, or other regulatory  
11       relief otherwise available under this Act may be granted from  
12       the requirements of this Section.

13       (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

14       Sec. 21. Prohibited acts. No person shall:

15       (a) Cause or allow the open dumping of any waste.

16       (b) Abandon, dump, or deposit any waste upon the public  
17 highways or other public property, except in a sanitary  
18 landfill approved by the Agency pursuant to regulations  
19 adopted by the Board.

20       (c) Abandon any vehicle in violation of the "Abandoned  
21 Vehicles Amendment to the Illinois Vehicle Code", as enacted  
22 by the 76th General Assembly.

23       (d) Conduct any waste-storage, waste-treatment, or  
24 waste-disposal operation:

25           (1) without a permit granted by the Agency or in

1 violation of any conditions imposed by such permit,  
2 including periodic reports and full access to adequate  
3 records and the inspection of facilities, as may be  
4 necessary to assure compliance with this Act and with  
5 regulations and standards adopted thereunder; provided,  
6 however, that, except for municipal solid waste landfill  
7 units that receive waste on or after October 9, 1993, and  
8 CCR surface impoundments, no permit shall be required for  
9 (i) any person conducting a waste-storage,  
10 waste-treatment, or waste-disposal operation for wastes  
11 generated by such person's own activities which are  
12 stored, treated, or disposed within the site where such  
13 wastes are generated, (ii) until one year after the  
14 effective date of rules adopted by the Board under  
15 subsection (n) of Section 22.38, a facility located in a  
16 county with a population over 700,000 as of January 1,  
17 2000, operated and located in accordance with Section  
18 22.38 of this Act, and used exclusively for the transfer,  
19 storage, or treatment of general construction or  
20 demolition debris, provided that the facility was  
21 receiving construction or demolition debris on August 24,  
22 2009 (the effective date of Public Act 96-611), or (iii)  
23 any person conducting a waste transfer, storage,  
24 treatment, or disposal operation, including, but not  
25 limited to, a waste transfer or waste composting  
26 operation, under a mass animal mortality event plan

1 created by the Department of Agriculture;

2 (2) in violation of any regulations or standards  
3 adopted by the Board under this Act;

4 (3) which receives waste after August 31, 1988, does  
5 not have a permit issued by the Agency, and is (i) a  
6 landfill used exclusively for the disposal of waste  
7 generated at the site, (ii) a surface impoundment  
8 receiving special waste not listed in an NPDES permit,  
9 (iii) a waste pile in which the total volume of waste is  
10 greater than 100 cubic yards or the waste is stored for  
11 over one year, or (iv) a land treatment facility receiving  
12 special waste generated at the site; without giving notice  
13 of the operation to the Agency by January 1, 1989, or 30  
14 days after the date on which the operation commences,  
15 whichever is later, and every 3 years thereafter. The form  
16 for such notification shall be specified by the Agency,  
17 and shall be limited to information regarding: the name  
18 and address of the location of the operation; the type of  
19 operation; the types and amounts of waste stored, treated  
20 or disposed of on an annual basis; the remaining capacity  
21 of the operation; and the remaining expected life of the  
22 operation.

23 Item (3) of this subsection (d) shall not apply to any  
24 person engaged in agricultural activity who is disposing of a  
25 substance that constitutes solid waste, if the substance was  
26 acquired for use by that person on his own property, and the

1 substance is disposed of on his own property in accordance  
2 with regulations or standards adopted by the Board.

3 This subsection (d) shall not apply to hazardous waste.

4 (e) Dispose, treat, store or abandon any waste, or  
5 transport any waste into this State for disposal, treatment,  
6 storage or abandonment, except at a site or facility which  
7 meets the requirements of this Act and of regulations and  
8 standards thereunder.

9 (f) Conduct any hazardous waste-storage, hazardous  
10 waste-treatment or hazardous waste-disposal operation:

11 (1) without a RCRA permit for the site issued by the  
12 Agency under subsection (d) of Section 39 of this Act, or  
13 in violation of any condition imposed by such permit,  
14 including periodic reports and full access to adequate  
15 records and the inspection of facilities, as may be  
16 necessary to assure compliance with this Act and with  
17 regulations and standards adopted thereunder; or

18 (2) in violation of any regulations or standards  
19 adopted by the Board under this Act; or

20 (3) in violation of any RCRA permit filing requirement  
21 established under standards adopted by the Board under  
22 this Act; or

23 (4) in violation of any order adopted by the Board  
24 under this Act.

25 Notwithstanding the above, no RCRA permit shall be  
26 required under this subsection or subsection (d) of Section 39

1 of this Act for any person engaged in agricultural activity  
2 who is disposing of a substance which has been identified as a  
3 hazardous waste, and which has been designated by Board  
4 regulations as being subject to this exception, if the  
5 substance was acquired for use by that person on his own  
6 property and the substance is disposed of on his own property  
7 in accordance with regulations or standards adopted by the  
8 Board.

9 (g) Conduct any hazardous waste-transportation operation:

10 (1) without registering with and obtaining a special  
11 waste hauling permit from the Agency in accordance with  
12 the regulations adopted by the Board under this Act; or

13 (2) in violation of any regulations or standards  
14 adopted by the Board under this Act.

15 (h) Conduct any hazardous waste-recycling or hazardous  
16 waste-reclamation or hazardous waste-reuse operation in  
17 violation of any regulations, standards or permit requirements  
18 adopted by the Board under this Act.

19 (i) Conduct any process or engage in any act which  
20 produces hazardous waste in violation of any regulations or  
21 standards adopted by the Board under subsections (a) and (c)  
22 of Section 22.4 of this Act.

23 (j) Conduct any special waste-transportation operation in  
24 violation of any regulations, standards or permit requirements  
25 adopted by the Board under this Act. However, sludge from a  
26 water or sewage treatment plant owned and operated by a unit of

1 local government which (1) is subject to a sludge management  
2 plan approved by the Agency or a permit granted by the Agency,  
3 and (2) has been tested and determined not to be a hazardous  
4 waste as required by applicable State and federal laws and  
5 regulations, may be transported in this State without a  
6 special waste hauling permit, and the preparation and carrying  
7 of a manifest shall not be required for such sludge under the  
8 rules of the Pollution Control Board. The unit of local  
9 government which operates the treatment plant producing such  
10 sludge shall file an annual report with the Agency identifying  
11 the volume of such sludge transported during the reporting  
12 period, the hauler of the sludge, and the disposal sites to  
13 which it was transported. This subsection (j) shall not apply  
14 to hazardous waste.

15 (k) Fail or refuse to pay any fee imposed under this Act.

16 (l) Locate a hazardous waste disposal site above an active  
17 or inactive shaft or tunneled mine or within 2 miles of an  
18 active fault in the earth's crust. In counties of population  
19 less than 225,000 no hazardous waste disposal site shall be  
20 located (1) within 1 1/2 miles of the corporate limits as  
21 defined on June 30, 1978, of any municipality without the  
22 approval of the governing body of the municipality in an  
23 official action; or (2) within 1000 feet of an existing  
24 private well or the existing source of a public water supply  
25 measured from the boundary of the actual active permitted site  
26 and excluding existing private wells on the property of the

1 permit applicant. The provisions of this subsection do not  
2 apply to publicly owned sewage works or the disposal or  
3 utilization of sludge from publicly owned sewage works.

4 (m) Transfer interest in any land which has been used as a  
5 hazardous waste disposal site without written notification to  
6 the Agency of the transfer and to the transferee of the  
7 conditions imposed by the Agency upon its use under subsection  
8 (g) of Section 39.

9 (n) Use any land which has been used as a hazardous waste  
10 disposal site except in compliance with conditions imposed by  
11 the Agency under subsection (g) of Section 39.

12 (o) Conduct a sanitary landfill operation which is  
13 required to have a permit under subsection (d) of this  
14 Section, in a manner which results in any of the following  
15 conditions:

16 (1) refuse in standing or flowing waters;

17 (2) leachate flows entering waters of the State;

18 (3) leachate flows exiting the landfill confines (as  
19 determined by the boundaries established for the landfill  
20 by a permit issued by the Agency);

21 (4) open burning of refuse in violation of Section 9  
22 of this Act;

23 (5) uncovered refuse remaining from any previous  
24 operating day or at the conclusion of any operating day,  
25 unless authorized by permit;

26 (6) failure to provide final cover within time limits



- 1 established by Board regulations;
- 2 (7) acceptance of wastes without necessary permits;
- 3 (8) scavenging as defined by Board regulations;
- 4 (9) deposition of refuse in any unpermitted portion of
- 5 the landfill;
- 6 (10) acceptance of a special waste without a required
- 7 manifest;
- 8 (11) failure to submit reports required by permits or
- 9 Board regulations;
- 10 (12) failure to collect and contain litter from the
- 11 site by the end of each operating day;
- 12 (13) failure to submit any cost estimate for the site
- 13 or any performance bond or other security for the site as
- 14 required by this Act or Board rules.

15 The prohibitions specified in this subsection (o) shall be

16 enforceable by the Agency either by administrative citation

17 under Section 31.1 of this Act or as otherwise provided by this

18 Act. The specific prohibitions in this subsection do not limit

19 the power of the Board to establish regulations or standards

20 applicable to sanitary landfills.

21 (p) In violation of subdivision (a) of this Section, cause

22 or allow the open dumping of any waste in a manner which

23 results in any of the following occurrences at the dump site:

- 24 (1) litter;
- 25 (2) scavenging;
- 26 (3) open burning;

- 1 (4) deposition of waste in standing or flowing waters;
- 2 (5) proliferation of disease vectors;
- 3 (6) standing or flowing liquid discharge from the dump
- 4 site;
- 5 (7) deposition of:
- 6 (i) general construction or demolition debris as
- 7 defined in Section 3.160(a) of this Act; or
- 8 (ii) clean construction or demolition debris as
- 9 defined in Section 3.160(b) of this Act.

10 The prohibitions specified in this subsection (p) shall be

11 enforceable by the Agency either by administrative citation

12 under Section 31.1 of this Act or as otherwise provided by this

13 Act. The specific prohibitions in this subsection do not limit

14 the power of the Board to establish regulations or standards

15 applicable to open dumping.

16 (q) Conduct a landscape waste composting operation without

17 an Agency permit, provided, however, that no permit shall be

18 required for any person:

19 (1) conducting a landscape waste composting operation

20 for landscape wastes generated by such person's own

21 activities which are stored, treated, or disposed of

22 within the site where such wastes are generated; or

23 (1.5) conducting a landscape waste composting

24 operation that (i) has no more than 25 cubic yards of

25 landscape waste, composting additives, composting

26 material, or end-product compost on-site at any one time

1 and (ii) is not engaging in commercial activity; or

2 (2) applying landscape waste or composted landscape  
3 waste at agronomic rates; or

4 (2.5) operating a landscape waste composting facility  
5 at a site having 10 or more occupied non-farm residences  
6 within 1/2 mile of its boundaries, if the facility meets  
7 all of the following criteria:

8 (A) the composting facility is operated by the  
9 farmer on property on which the composting material is  
10 utilized, and the composting facility constitutes no  
11 more than 2% of the site's total acreage;

12 (A-5) any composting additives that the composting  
13 facility accepts and uses at the facility are  
14 necessary to provide proper conditions for composting  
15 and do not exceed 10% of the total composting material  
16 at the facility at any one time;

17 (B) the property on which the composting facility  
18 is located, and any associated property on which the  
19 compost is used, is principally and diligently devoted  
20 to the production of agricultural crops and is not  
21 owned, leased, or otherwise controlled by any waste  
22 hauler or generator of nonagricultural compost  
23 materials, and the operator of the composting facility  
24 is not an employee, partner, shareholder, or in any  
25 way connected with or controlled by any such waste  
26 hauler or generator;

1 (C) all compost generated by the composting  
2 facility is applied at agronomic rates and used as  
3 mulch, fertilizer, or soil conditioner on land  
4 actually farmed by the person operating the composting  
5 facility, and the finished compost is not stored at  
6 the composting site for a period longer than 18 months  
7 prior to its application as mulch, fertilizer, or soil  
8 conditioner;

9 (D) no fee is charged for the acceptance of  
10 materials to be composted at the facility; and

11 (E) the owner or operator, by January 1, 2014 (or  
12 the January 1 following commencement of operation,  
13 whichever is later) and January 1 of each year  
14 thereafter, registers the site with the Agency, (ii)  
15 reports to the Agency on the volume of composting  
16 material received and used at the site; (iii)  
17 certifies to the Agency that the site complies with  
18 the requirements set forth in subparagraphs (A),  
19 (A-5), (B), (C), and (D) of this paragraph (2.5); and  
20 (iv) certifies to the Agency that all composting  
21 material was placed more than 200 feet from the  
22 nearest potable water supply well, was placed outside  
23 the boundary of the 10-year floodplain or on a part of  
24 the site that is floodproofed, was placed at least 1/4  
25 mile from the nearest residence (other than a  
26 residence located on the same property as the

1 facility) or a lesser distance from the nearest  
2 residence (other than a residence located on the same  
3 property as the facility) if the municipality in which  
4 the facility is located has by ordinance approved a  
5 lesser distance than 1/4 mile, and was placed more  
6 than 5 feet above the water table; any ordinance  
7 approving a residential setback of less than 1/4 mile  
8 that is used to meet the requirements of this  
9 subparagraph (E) of paragraph (2.5) of this subsection  
10 must specifically reference this paragraph; or

11 (3) operating a landscape waste composting facility on  
12 a farm, if the facility meets all of the following  
13 criteria:

14 (A) the composting facility is operated by the  
15 farmer on property on which the composting material is  
16 utilized, and the composting facility constitutes no  
17 more than 2% of the property's total acreage, except  
18 that the Board may allow a higher percentage for  
19 individual sites where the owner or operator has  
20 demonstrated to the Board that the site's soil  
21 characteristics or crop needs require a higher rate;

22 (A-1) the composting facility accepts from other  
23 agricultural operations for composting with landscape  
24 waste no materials other than uncontaminated and  
25 source-separated (i) crop residue and other  
26 agricultural plant residue generated from the

1 production and harvesting of crops and other customary  
2 farm practices, including, but not limited to, stalks,  
3 leaves, seed pods, husks, bagasse, and roots and (ii)  
4 plant-derived animal bedding, such as straw or  
5 sawdust, that is free of manure and was not made from  
6 painted or treated wood;

7 (A-2) any composting additives that the composting  
8 facility accepts and uses at the facility are  
9 necessary to provide proper conditions for composting  
10 and do not exceed 10% of the total composting material  
11 at the facility at any one time;

12 (B) the property on which the composting facility  
13 is located, and any associated property on which the  
14 compost is used, is principally and diligently devoted  
15 to the production of agricultural crops and is not  
16 owned, leased or otherwise controlled by any waste  
17 hauler or generator of nonagricultural compost  
18 materials, and the operator of the composting facility  
19 is not an employee, partner, shareholder, or in any  
20 way connected with or controlled by any such waste  
21 hauler or generator;

22 (C) all compost generated by the composting  
23 facility is applied at agronomic rates and used as  
24 mulch, fertilizer or soil conditioner on land actually  
25 farmed by the person operating the composting  
26 facility, and the finished compost is not stored at

1 the composting site for a period longer than 18 months  
2 prior to its application as mulch, fertilizer, or soil  
3 conditioner;

4 (D) the owner or operator, by January 1 of each  
5 year, (i) registers the site with the Agency, (ii)  
6 reports to the Agency on the volume of composting  
7 material received and used at the site, (iii)  
8 certifies to the Agency that the site complies with  
9 the requirements set forth in subparagraphs (A),  
10 (A-1), (A-2), (B), and (C) of this paragraph (q) (3),  
11 and (iv) certifies to the Agency that all composting  
12 material:

13 (I) was placed more than 200 feet from the  
14 nearest potable water supply well;

15 (II) was placed outside the boundary of the  
16 10-year floodplain or on a part of the site that is  
17 floodproofed;

18 (III) was placed either (aa) at least 1/4 mile  
19 from the nearest residence (other than a residence  
20 located on the same property as the facility) and  
21 there are not more than 10 occupied non-farm  
22 residences within 1/2 mile of the boundaries of  
23 the site on the date of application or (bb) a  
24 lesser distance from the nearest residence (other  
25 than a residence located on the same property as  
26 the facility) provided that the municipality or

1 county in which the facility is located has by  
2 ordinance approved a lesser distance than 1/4 mile  
3 and there are not more than 10 occupied non-farm  
4 residences within 1/2 mile of the boundaries of  
5 the site on the date of application; and

6 (IV) was placed more than 5 feet above the  
7 water table.

8 Any ordinance approving a residential setback of  
9 less than 1/4 mile that is used to meet the  
10 requirements of this subparagraph (D) must  
11 specifically reference this subparagraph.

12 For the purposes of this subsection (q), "agronomic rates"  
13 means the application of not more than 20 tons per acre per  
14 year, except that the Board may allow a higher rate for  
15 individual sites where the owner or operator has demonstrated  
16 to the Board that the site's soil characteristics or crop  
17 needs require a higher rate.

18 (r) Cause or allow the storage or disposal of coal  
19 combustion waste unless:

20 (1) such waste is stored or disposed of at a site or  
21 facility for which a permit has been obtained or is not  
22 otherwise required under subsection (d) of this Section;  
23 or

24 (2) such waste is stored or disposed of as a part of  
25 the design and reclamation of a site or facility which is  
26 an abandoned mine site in accordance with the Abandoned



1 Mined Lands and Water Reclamation Act; or

2 (3) such waste is stored or disposed of at a site or  
3 facility which is operating under NPDES and Subtitle D  
4 permits issued by the Agency pursuant to regulations  
5 adopted by the Board for mine-related water pollution and  
6 permits issued pursuant to the federal Surface Mining  
7 Control and Reclamation Act of 1977 (P.L. 95-87) or the  
8 rules and regulations thereunder or any law or rule or  
9 regulation adopted by the State of Illinois pursuant  
10 thereto, and the owner or operator of the facility agrees  
11 to accept the waste; and either:

12 (i) such waste is stored or disposed of in  
13 accordance with requirements applicable to refuse  
14 disposal under regulations adopted by the Board for  
15 mine-related water pollution and pursuant to NPDES and  
16 Subtitle D permits issued by the Agency under such  
17 regulations; or

18 (ii) the owner or operator of the facility  
19 demonstrates all of the following to the Agency, and  
20 the facility is operated in accordance with the  
21 demonstration as approved by the Agency: (1) the  
22 disposal area will be covered in a manner that will  
23 support continuous vegetation, (2) the facility will  
24 be adequately protected from wind and water erosion,  
25 (3) the pH will be maintained so as to prevent  
26 excessive leaching of metal ions, and (4) adequate

1           containment or other measures will be provided to  
2           protect surface water and groundwater from  
3           contamination at levels prohibited by this Act, the  
4           Illinois Groundwater Protection Act, or regulations  
5           adopted pursuant thereto.

6           Notwithstanding any other provision of this Title, the  
7           disposal of coal combustion waste pursuant to item (2) or (3)  
8           of this subdivision (r) shall be exempt from the other  
9           provisions of this Title V, and notwithstanding the provisions  
10          of Title X of this Act, the Agency is authorized to grant  
11          experimental permits which include provision for the disposal  
12          of wastes from the combustion of coal and other materials  
13          pursuant to items (2) and (3) of this subdivision (r).

14          (s) After April 1, 1989, offer for transportation,  
15          transport, deliver, receive or accept special waste for which  
16          a manifest is required, unless the manifest indicates that the  
17          fee required under Section 22.8 of this Act has been paid.

18          (t) Cause or allow a lateral expansion of a municipal  
19          solid waste landfill unit on or after October 9, 1993, without  
20          a permit modification, granted by the Agency, that authorizes  
21          the lateral expansion.

22          (u) Conduct any vegetable by-product treatment, storage,  
23          disposal or transportation operation in violation of any  
24          regulation, standards or permit requirements adopted by the  
25          Board under this Act. However, no permit shall be required  
26          under this Title V for the land application of vegetable

1 by-products conducted pursuant to Agency permit issued under  
2 Title III of this Act to the generator of the vegetable  
3 by-products. In addition, vegetable by-products may be  
4 transported in this State without a special waste hauling  
5 permit, and without the preparation and carrying of a  
6 manifest.

7 (v) (Blank).

8 (w) Conduct any generation, transportation, or recycling  
9 of construction or demolition debris, clean or general, or  
10 uncontaminated soil generated during construction, remodeling,  
11 repair, and demolition of utilities, structures, and roads  
12 that is not commingled with any waste, without the maintenance  
13 of documentation identifying the hauler, generator, place of  
14 origin of the debris or soil, the weight or volume of the  
15 debris or soil, and the location, owner, and operator of the  
16 facility where the debris or soil was transferred, disposed,  
17 recycled, or treated. This documentation must be maintained by  
18 the generator, transporter, or recycler for 3 years. This  
19 subsection (w) shall not apply to (1) a permitted pollution  
20 control facility that transfers or accepts construction or  
21 demolition debris, clean or general, or uncontaminated soil  
22 for final disposal, recycling, or treatment, (2) a public  
23 utility (as that term is defined in the Public Utilities Act)  
24 or a municipal utility, (3) the Illinois Department of  
25 Transportation, or (4) a municipality or a county highway  
26 department, with the exception of any municipality or county

1 highway department located within a county having a population  
2 of over 3,000,000 inhabitants or located in a county that is  
3 contiguous to a county having a population of over 3,000,000  
4 inhabitants; but it shall apply to an entity that contracts  
5 with a public utility, a municipal utility, the Illinois  
6 Department of Transportation, or a municipality or a county  
7 highway department. The terms "generation" and "recycling", as  
8 used in this subsection, do not apply to clean construction or  
9 demolition debris when (i) used as fill material below grade  
10 outside of a setback zone if covered by sufficient  
11 uncontaminated soil to support vegetation within 30 days of  
12 the completion of filling or if covered by a road or structure,  
13 (ii) solely broken concrete without protruding metal bars is  
14 used for erosion control, or (iii) milled asphalt or crushed  
15 concrete is used as aggregate in construction of the shoulder  
16 of a roadway. The terms "generation" and "recycling", as used  
17 in this subsection, do not apply to uncontaminated soil that  
18 is not commingled with any waste when (i) used as fill material  
19 below grade or contoured to grade, or (ii) used at the site of  
20 generation.

21 (x) Conduct any carbon sequestration operation:

22 (1) without a permit granted by the Agency in  
23 accordance with Section 22.63 and implementing rules, or  
24 in violation of any condition imposed by such permit,  
25 including periodic reports and full access to adequate  
26 records and the inspection of facilities, as may be

1 necessary to assure compliance with this Act and with  
2 regulations and standards adopted thereunder;

3 (2) in violation this Act or any regulations or  
4 standards adopted by the Board under this Act; or

5 (3) in violation of any order adopted by the Board  
6 under this Act.

7 (y) Inject any concentrated carbon dioxide fluid produced  
8 by a carbon dioxide capture project into a Class II well for  
9 purposes of enhanced oil recovery, including the facilitation  
10 of enhanced oil recovery from another well or sell or  
11 transport concentrated carbon dioxide fluid produced by a  
12 carbon dioxide capture project for use in enhanced oil  
13 recovery.

14 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;  
15 102-310, eff. 8-6-21; 102-558, eff. 8-20-21; 102-813, eff.  
16 5-13-22.)

17 (415 ILCS 5/22.63 new)

18 Sec. 22.63. Carbon sequestration.

19 (a) The General Assembly finds that:

20 (1) the State has a long-standing policy to restore,  
21 protect, and enhance the environment, including the purity  
22 of the air, land, and waters, including groundwaters, of  
23 this State;

24 (2) a clean environment is essential to the growth and  
25 well-being of this State;

1           (3) the sequestration of carbon in underground  
2           formations poses a significant and long-term risk to the  
3           air, land, and waters, including groundwater, of the State  
4           unless Illinois adopts clear standards to ensure that no  
5           sequestered carbon escapes the underground formation into  
6           which it is injected; and

7           (4) meaningful participation of State residents,  
8           especially vulnerable populations who may be affected by  
9           regulatory actions, is critical to ensure that  
10           environmental justice considerations are incorporated in  
11           the development of, decision-making related to, and  
12           implementation of environmental laws and rulemaking that  
13           protects and improves the well-being of communities in  
14           this State that bear disproportionate burdens imposed by  
15           environmental pollution.

16           Therefore, the purpose of this Section is to promote a  
17           healthful environment, including clean water, air, and land,  
18           meaningful public involvement, and to ensure only responsible  
19           sequestration of carbon dioxide occurs in the State, so as to  
20           protect public health and to prevent pollution of the  
21           environment.

22           The provisions of this Section shall be liberally  
23           construed to carry out the purposes of this Section.

24           (b) Permit required. Any person seeking to sequester  
25           carbon dioxide in the State must first obtain a carbon  
26           sequestration permit from the Agency in accordance with the

1 rules developed pursuant to subsection (h).

2 (c) Environmental impact analysis. Any person seeking to  
3 sequester carbon dioxide in the State must, before seeking a  
4 carbon sequestration permit in accordance with the rules  
5 developed pursuant to subsection (h), first conduct an  
6 environmental impact analysis. That environmental impact  
7 analysis must:

8 (1) include a statement of purpose and need for the  
9 proposed carbon sequestration project;

10 (2) include a greenhouse gas inventory analysis that  
11 details and compiles the total Scope 1, 2, and 3  
12 greenhouse gas emissions associated with the capture,  
13 transportation, and sequestration of the carbon dioxide  
14 proposed to be sequestered, together with a demonstration  
15 that the Scope 1, 2, and 3 emissions associated with the  
16 capture, transportation, and sequestration of the carbon  
17 dioxide, converted into carbon dioxide equivalent,  
18 consistent with United States Environmental Protection  
19 Agency rules and guidance, will not exceed the total  
20 amount of greenhouse gases sequestered on an annual basis  
21 for each year the project remains in operation;

22 (3) include a water impacts analysis that details: (i)  
23 the water sources likely to be impacted by the capture,  
24 transportation, and sequestration of the carbon dioxide  
25 proposed to be sequestered; (ii) current uses of those  
26 water sources; (iii) potential or certain impacts to those

1 water sources from capture, transportation, and  
2 sequestration of the carbon dioxide, including impacts to  
3 water quantity, quality, and current uses; (iv) the  
4 duration of the impacts to water associated with the  
5 capture, transportation, and sequestration of the carbon  
6 dioxide proposed to be sequestered; and (v) the methods  
7 the applicant will use to minimize both water use and  
8 impacts to water quality associated with the sequestration  
9 of carbon dioxide;

10 (4) include an alternatives analysis that evaluates  
11 other reasonable alternatives for achieving the same  
12 volume of carbon dioxide emissions reductions as are  
13 proposed to be achieved through carbon sequestration,  
14 including: (i) if the carbon dioxide was captured at a  
15 facility that generates electricity, energy-generation  
16 alternatives such as renewable energy, energy storage, or  
17 energy efficiency; (ii) if the carbon dioxide was captured  
18 at a facility that produces fuel for vehicles or  
19 equipment, alternatives such as the use of electric  
20 vehicles; and (iii) if the carbon dioxide was captured at  
21 an industrial facility, alternative industrial processes  
22 that could reduce the amount of carbon dioxide generated.  
23 For each alternative identified, the person seeking to  
24 sequester carbon dioxide shall complete a GHG inventory  
25 analysis of the alternative consistent with paragraph (2)  
26 of subsection and a water impacts analysis, addressing the



1 factors set out in paragraph (3) of subsection; and

2 (5) be developed with public input, including by  
3 making a draft version of the analysis available on a  
4 public website for not less than 60 days and accepting  
5 comments on the proposed analysis for the entirety of that  
6 period, together with a public meeting at least 14 days  
7 after the posting of the draft on the public website which  
8 provides a meaningful opportunity for the public to ask  
9 questions, have those questions answered, and provide  
10 comment on the draft. The final environmental analysis  
11 must include responses to public comments, identify all  
12 changes to the analysis made in response to those  
13 comments, and be made available to the public on a public  
14 website.

15 (d) Area of review analysis. Any person seeking to  
16 sequester carbon dioxide in the State must, before seeking a  
17 carbon sequestration permit in accordance with the rules  
18 developed pursuant to subsection (h), first conduct an area of  
19 review analysis that: (i) identifies any faults, fractures,  
20 cracks, abandoned or operating wells, mine shafts, quarries,  
21 seismic activity, or other features of the proposed area of  
22 review that could interfere with containment of carbon  
23 dioxide; and (ii) if any such feature is present, demonstrates  
24 that the feature will not interfere with carbon dioxide  
25 containment.

26 (e) Conditions on water use. No permit for the

1 sequestration of carbon dioxide may be issued unless: (i) the  
2 Illinois State Water Survey has reviewed the water impacts  
3 analysis required under subsection (c) and, taking into  
4 consideration that analysis, information available to the  
5 Illinois State Water Survey concerning water supply and uses,  
6 and public comment, concluded that the proposed carbon dioxide  
7 sequestration project will not have significant adverse  
8 effects on water supply or current or future uses of the water  
9 source; and (ii) the permit sets out conditions, determined in  
10 consultation with the Illinois State Water Supply and taking  
11 into consideration public comments, under which the project  
12 operator must reduce the volume or rate or water that may be  
13 utilized for the sequestration of carbon dioxide, as well as  
14 conditions under which the use of water for carbon  
15 sequestration must be halted altogether.

16 (f) Financial Assurance. Any person who applies for, or is  
17 granted, a permit for carbon sequestration under subsection  
18 (b) shall post with the Agency a performance bond or other  
19 security in accordance with this Act and the rules developed  
20 pursuant to subsection (h). The only acceptable forms of  
21 financial assurance are a trust fund, a surety bond  
22 guaranteeing payment, a surety bond guaranteeing performance,  
23 or an irrevocable letter of credit. The Agency is authorized  
24 to enter into such contracts and agreements as it may deem  
25 necessary to carry out the purposes of this Section. Neither  
26 the State, nor the Director, nor any State employee shall be

1 liable for any damages or injuries arising out of or resulting  
2 from any action taken under this Section. The Agency shall  
3 have the authority to approve or disapprove any performance  
4 bond or other security posted under this subsection. Any  
5 person whose performance bond or other security is disapproved  
6 by the Agency may contest the disapproval as a permit denial  
7 appeal pursuant to Section 40.

8 (g) Registration and insurance. Every applicant for a  
9 permit for carbon sequestration under subsection (b) shall  
10 first register with the Agency at least 60 days before  
11 applying for a permit. The Agency shall make available a  
12 registration form within 90 days after the effective date of  
13 this Act. The registration form shall require the following  
14 information:

15 (1) the name and address of the registrant and any  
16 parent, subsidiary, or affiliate thereof;

17 (2) disclosure of all findings of a serious violation  
18 or an equivalent violation under federal or State laws or  
19 regulations concerning the development or operation of a  
20 carbon dioxide injection well, a carbon dioxide pipeline,  
21 or an oil or gas exploration or production site, by the  
22 applicant or any parent, subsidiary, or affiliate thereof  
23 within the previous 5 years; and

24 (3) proof of insurance to cover injuries, damages, or  
25 loss related to a release of carbon dioxide in the amount  
26 of at least \$250,000,000, from an insurance carrier

1 authorized, licensed, or permitted to do this insurance  
2 business in this State that holds at least an A- rating by  
3 A.M. Best and Company or any comparable rating service.

4 A registrant must notify the Department of any change in  
5 the information identified in paragraphs (1), (2), or (3) no  
6 later than one month following the change or sooner upon  
7 request of the Agency. If granted a carbon sequestration  
8 permit under this Section, the permittee must maintain  
9 insurance in accordance with paragraph (1) throughout the  
10 period during which carbon dioxide is injected into the  
11 sequestration site and at least 100 years thereafter.

12 (h) The Board shall adopt rules establishing permit  
13 requirements and other standards for carbon sequestration. The  
14 Board's rules shall address, but are not limited to, the  
15 following issues: applicability; required permit information;  
16 minimum criteria for siting; area of review and corrective  
17 action; financial responsibility; injection well construction  
18 requirements; logging, sampling, and testing requirements  
19 prior to injection well operation; injection well operating  
20 requirements; mechanical integrity; testing and monitoring  
21 requirements; reporting requirements; injection well plugging;  
22 post-injection site care and site closure; emergency and  
23 remedial response; conditions for obtaining a variance from  
24 injection depth requirements; and security protections for  
25 injection wells, monitors, and other associated infrastructure  
26 to prevent tampering with sequestration-related equipment. Not

1 later than one year after the effective date of this  
2 amendatory Act of the 103rd General Assembly the Agency shall  
3 propose, and not later than 2 years after receipt of the  
4 Agency's proposal the Board shall adopt, rules under this  
5 Section. The rules must, at a minimum:

6 (1) be at least as protective and comprehensive as the  
7 federal regulations or amendments thereto promulgated by  
8 the Administrator of the United States Environmental  
9 Protection Agency in Subpart H of 40 CFR 146 governing  
10 Class VI Wells;

11 (2) specify the minimum contents of carbon  
12 sequestration permit applications, which shall include the  
13 environmental impacts analyses required by subsection (c),  
14 the area of review analysis required by subsection (d),  
15 and documentation and analyses sufficient to demonstrate  
16 compliance with all applicable rules for carbon  
17 sequestration developed pursuant to this Section;

18 (3) specify the frequency at which carbon  
19 sequestration permits expire and must be renewed, the  
20 circumstances under which a permittee must seek a permit  
21 modification, and the circumstances under which the Agency  
22 may temporarily or permanently revoke a carbon  
23 sequestration permit;

24 (4) specify standards for review, approval, and denial  
25 by the Agency of carbon sequestration permit applications;

26 (5) specify meaningful public participation procedures

1 for the issuance of carbon sequestration permits,  
2 including, but not limited to, public notice of the  
3 submission of permit applications; posting on a public  
4 website of the full permit application, the draft and  
5 final permitting actions by the Agency, and the Agency's  
6 response to comments; an opportunity for the submission of  
7 public comments; an opportunity for a public hearing prior  
8 to permit issuance; and a summary and response of the  
9 comments prepared by the Agency. When the sequestration is  
10 proposed to take place in an area of environmental justice  
11 concern, the rules shall specify further opportunities for  
12 public participation, including but not limited to public  
13 meetings, translations of relevant documents into other  
14 languages for residents with limited English proficiency,  
15 and interpretation services at public meetings and  
16 hearings;

17 (6) prescribe the type and amount of the performance  
18 bonds or other securities required under subsection (f),  
19 and the conditions under which the State is entitled to  
20 collect moneys from such performance bonds or other  
21 securities;

22 (7) specify a procedure to identify areas of  
23 environmental justice concern in relation to sequestration  
24 facilities;

25 (8) prohibit carbon dioxide sequestration unless the  
26 permit applicant demonstrates that the confining zone in

1 which the applicant proposes to sequester carbon dioxide:

2 (i) is not located in an active seismic zone, fault area,

3 or any other location in which carbon sequestration could

4 pose an undue risk of harm to human health or the

5 environment; (ii) does not intersect with an aquifer

6 containing groundwater classified as Class 1, 2 or 3

7 groundwater under 35 Ill. Adm. Code 620; (ii) does not

8 intersect with any aquifer that is hydraulically connected

9 to aquifers containing groundwater classified as Class 1,

10 2, or 3 under 35 Ill. Adm. Code 620; and (iii) does not

11 contain any faults, fractures, abandoned or operating

12 wells, mine shafts, quarries, or other features that could

13 interfere with containment of carbon dioxide;

14 (9) require that monitoring of carbon sequestration

15 facilities be conducted by a third-party contractor;

16 (10) establish minimum qualifications for third-party

17 contractors to conduct monitoring;

18 (11) specify the types of monitors and frequency of

19 monitoring to be performed at carbon sequestration

20 facilities, which in addition to monitoring required by

21 Subpart H of 40 CFR 146 shall include surface air

22 monitoring, soil gas monitoring, seismicity monitoring,

23 and any other types of monitoring the Board determines are

24 appropriate to protect health and the environment;

25 (12) set the minimum duration of the post-injection

26 site care period at no fewer than 100 years; and

1           (13) establish reporting requirements for carbon  
2           sequestration permittees, which in addition to the  
3           reporting required by Subpart H of 40 CFR 146 shall  
4           include, but are not limited to, the mass of carbon  
5           dioxide transported to sequestration facilities, the  
6           facilities from which that carbon dioxide was captured,  
7           seismic events of significant magnitude, and malfunctions  
8           or downtime of any monitors.

9           (i) No adjusted standard, variance, or other regulatory  
10          relief otherwise available under this Act may be granted from  
11          the requirements of this Section.

12           (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

13           Sec. 39. Issuance of permits; procedures.

14           (a) When the Board has by regulation required a permit for  
15           the construction, installation, or operation of any type of  
16           facility, equipment, vehicle, vessel, or aircraft, the  
17           applicant shall apply to the Agency for such permit and it  
18           shall be the duty of the Agency to issue such a permit upon  
19           proof by the applicant that the facility, equipment, vehicle,  
20           vessel, or aircraft will not cause a violation of this Act or  
21           of regulations hereunder. The Agency shall adopt such  
22           procedures as are necessary to carry out its duties under this  
23           Section. In making its determinations on permit applications  
24           under this Section the Agency may consider prior adjudications  
25           of noncompliance with this Act by the applicant that involved



1 a release of a contaminant into the environment. In granting  
2 permits, the Agency may impose reasonable conditions  
3 specifically related to the applicant's past compliance  
4 history with this Act as necessary to correct, detect, or  
5 prevent noncompliance. The Agency may impose such other  
6 conditions as may be necessary to accomplish the purposes of  
7 this Act, and as are not inconsistent with the regulations  
8 promulgated by the Board hereunder. Except as otherwise  
9 provided in this Act, a bond or other security shall not be  
10 required as a condition for the issuance of a permit. If the  
11 Agency denies any permit under this Section, the Agency shall  
12 transmit to the applicant within the time limitations of this  
13 Section 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 (i) the Sections of this Act which may be violated if  
17 the permit were granted;

18 (ii) the provision of the regulations, promulgated  
19 under this Act, which may be violated if the permit were  
20 granted;

21 (iii) the specific type of information, if any, which  
22 the Agency deems the applicant did not provide the Agency;  
23 and

24 (iv) a statement of specific reasons why the Act and  
25 the regulations might not be met if the permit were  
26 granted.

1           If there is no final action by the Agency within 90 days  
2 after the filing of the application for permit, the applicant  
3 may deem the permit issued; except that this time period shall  
4 be extended to 180 days when (1) notice and opportunity for  
5 public hearing are required by State or federal law or  
6 regulation, (2) the application which was filed is for any  
7 permit to develop a landfill subject to issuance pursuant to  
8 this subsection, or (3) the application that was filed is for a  
9 MSWLF unit required to issue public notice under subsection  
10 (p) of Section 39. The 90-day and 180-day time periods for the  
11 Agency to take final action do not apply to NPDES permit  
12 applications under subsection (b) of this Section, to RCRA  
13 permit applications under subsection (d) of this Section, to  
14 UIC permit applications under subsection (e) of this Section,  
15 or to CCR surface impoundment applications under subsection  
16 (y) of this Section.

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

23           After January 1, 1994 and until July 1, 1998, operating  
24 permits issued under this Section by the Agency for sources of  
25 air pollution permitted to emit less than 25 tons per year of  
26 any combination of regulated air pollutants, as defined in

1 Section 39.5 of this Act, shall be required to be renewed only  
2 upon written request by the Agency consistent with applicable  
3 provisions of this Act and regulations promulgated hereunder.  
4 Such operating permits shall expire 180 days after the date of  
5 such a request. The Board shall revise its regulations for the  
6 existing State air pollution operating permit program  
7 consistent with this provision by January 1, 1994.

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

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

25 All NPDES permits shall contain those terms and  
26 conditions, including, but not limited to, schedules of

1 compliance, which may be required to accomplish the purposes  
2 and provisions of this Act.

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

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

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

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

1           (c) Except for those facilities owned or operated by  
2 sanitary districts organized under the Metropolitan Water  
3 Reclamation District Act, no permit for the development or  
4 construction of a new pollution control facility may be  
5 granted by the Agency unless the applicant submits proof to  
6 the Agency that the location of the facility has been approved  
7 by the county board of the county if in an unincorporated area,  
8 or the governing body of the municipality when in an  
9 incorporated area, in which the facility is to be located in  
10 accordance with Section 39.2 of this Act. For purposes of this  
11 subsection (c), and for purposes of Section 39.2 of this Act,  
12 the appropriate county board or governing body of the  
13 municipality shall be the county board of the county or the  
14 governing body of the municipality in which the facility is to  
15 be located as of the date when the application for siting  
16 approval is filed.

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

1 granted siting approval for that facility and upon any party  
2 to the siting proceeding pursuant to which siting approval was  
3 granted. In that event, the Agency shall conduct an evaluation  
4 of the subsequent owner or operator's prior experience in  
5 waste management operations in the manner conducted under  
6 subsection (i) of Section 39 of this Act.

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

24 In the case of a pollution control facility for which a  
25 development permit was issued before November 12, 1981, if an  
26 operating permit has not been issued by the Agency prior to

1 August 31, 1989 for any portion of the facility, then the  
2 Agency may not issue or renew any development permit nor issue  
3 an original operating permit for any portion of such facility  
4 unless the applicant has submitted proof to the Agency that  
5 the location of the facility has been approved by the  
6 appropriate county board or municipal governing body pursuant  
7 to Section 39.2 of this Act.

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

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

1 relieve the applicant from meeting and securing all necessary  
2 zoning approvals from the unit of government having zoning  
3 jurisdiction over the 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 (d) The Agency may issue RCRA permits exclusively under  
10 this subsection to persons owning or operating a facility for  
11 the treatment, storage, or disposal of hazardous waste as  
12 defined under this Act. Subsection (y) of this Section, rather  
13 than this subsection (d), shall apply to permits issued for  
14 CCR surface impoundments.

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

26 In the case of a permit to operate a hazardous waste or PCB

1 incinerator as defined in subsection (k) of Section 44, the  
2 Agency shall require, as a condition of the permit, that the  
3 operator of the facility perform such analyses of the waste to  
4 be incinerated as may be necessary and appropriate to ensure  
5 the safe operation of the incinerator.

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

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

21 (e) The Agency may issue UIC permits exclusively under  
22 this subsection to persons owning or operating a facility for  
23 the underground injection of contaminants as defined under  
24 this Act, except that the Agency shall issue any permits for  
25 underground injection wells for the sequestration of carbon  
26 dioxide under Section 22.63.

1 All UIC permits shall contain those terms and conditions,  
2 including, but not limited to, schedules of compliance, which  
3 may be required to accomplish the purposes and provisions of  
4 this Act. The Agency may include among such conditions  
5 standards and other requirements established under this Act,  
6 Board regulations, the Safe Drinking Water Act (P.L. 93-523),  
7 as amended, and regulations pursuant thereto, and may include  
8 schedules for achieving compliance therewith. The Agency shall  
9 require that a performance bond or other security be provided  
10 as a condition for the issuance of a UIC permit.

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

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

25 (f) In making any determination pursuant to Section 9.1 of  
26 this Act:

1           (1) The Agency shall have authority to make the  
2           determination of any question required to be determined by  
3           the Clean Air Act, as now or hereafter amended, this Act,  
4           or the regulations of the Board, including the  
5           determination of the Lowest Achievable Emission Rate,  
6           Maximum Achievable Control Technology, or Best Available  
7           Control Technology, consistent with the Board's  
8           regulations, if any.

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

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

23          (4) The Agency shall, after conferring with the  
24          applicant, give written notice to the applicant of its  
25          proposed decision on the application, including the terms  
26          and conditions of the permit to be issued and the facts,

1           conduct, or other basis upon which the Agency will rely to  
2           support its proposed action.

3           (g) The Agency shall include as conditions upon all  
4           permits issued for hazardous waste disposal sites such  
5           restrictions upon the future use of such sites as are  
6           reasonably necessary to protect public health and the  
7           environment, including permanent prohibition of the use of  
8           such sites for purposes which may create an unreasonable risk  
9           of injury to human health or to the environment. After  
10          administrative and judicial challenges to such restrictions  
11          have been exhausted, the Agency shall file such restrictions  
12          of record in the Office of the Recorder of the county in which  
13          the hazardous waste disposal site is located.

14          (h) A hazardous waste stream may not be deposited in a  
15          permitted hazardous waste site unless specific authorization  
16          is obtained from the Agency by the generator and disposal site  
17          owner and operator for the deposit of that specific hazardous  
18          waste stream. The Agency may grant specific authorization for  
19          disposal of hazardous waste streams only after the generator  
20          has reasonably demonstrated that, considering technological  
21          feasibility and economic reasonableness, the hazardous waste  
22          cannot be reasonably recycled for reuse, nor incinerated or  
23          chemically, physically, or biologically treated so as to  
24          neutralize the hazardous waste and render it nonhazardous. In  
25          granting authorization under this Section, the Agency may  
26          impose such conditions as may be necessary to accomplish the

1 purposes of the Act and are consistent with this Act and  
2 regulations promulgated by the Board hereunder. If the Agency  
3 refuses to grant authorization under this Section, the  
4 applicant may appeal as if the Agency refused to grant a  
5 permit, pursuant to the provisions of subsection (a) of  
6 Section 40 of this Act. For purposes of this subsection (h),  
7 the term "generator" has the meaning given in Section 3.205 of  
8 this Act, unless: (1) the hazardous waste is treated,  
9 incinerated, or partially recycled for reuse prior to  
10 disposal, in which case the last person who treats,  
11 incinerates, or partially recycles the hazardous waste prior  
12 to disposal is the generator; or (2) the hazardous waste is  
13 from a response action, in which case the person performing  
14 the response action is the generator. This subsection (h) does  
15 not apply to any hazardous waste that is restricted from land  
16 disposal under 35 Ill. Adm. Code 728.

17 (i) Before issuing any RCRA permit, any permit for a waste  
18 storage site, sanitary landfill, waste disposal site, waste  
19 transfer station, waste treatment facility, waste incinerator,  
20 or any waste-transportation operation, any permit or interim  
21 authorization for a clean construction or demolition debris  
22 fill operation, or any permit required under subsection (d-5)  
23 of Section 55, the Agency shall conduct an evaluation of the  
24 prospective owner's or operator's prior experience in waste  
25 management operations, clean construction or demolition debris  
26 fill operations, and tire storage site management. The Agency

1 may deny such a permit, or deny or revoke interim  
2 authorization, if the prospective owner or operator or any  
3 employee or officer of the prospective owner or operator has a  
4 history of:

5 (1) repeated violations of federal, State, or local  
6 laws, regulations, standards, or ordinances in the  
7 operation of waste management facilities or sites, clean  
8 construction or demolition debris fill operation  
9 facilities or sites, or tire storage sites; or

10 (2) conviction in this or another State of any crime  
11 which is a felony under the laws of this State, or  
12 conviction of a felony in a federal court; or conviction  
13 in this or another state or federal court of any of the  
14 following crimes: forgery, official misconduct, bribery,  
15 perjury, or knowingly submitting false information under  
16 any environmental law, regulation, or permit term or  
17 condition; or

18 (3) proof of gross carelessness or incompetence in  
19 handling, storing, processing, transporting, or disposing  
20 of waste, clean construction or demolition debris, or used  
21 or waste tires, or proof of gross carelessness or  
22 incompetence in using clean construction or demolition  
23 debris as fill.

24 (i-5) Before issuing any permit or approving any interim  
25 authorization for a clean construction or demolition debris  
26 fill operation in which any ownership interest is transferred

1 between January 1, 2005, and the effective date of the  
2 prohibition set forth in Section 22.52 of this Act, the Agency  
3 shall conduct an evaluation of the operation if any previous  
4 activities at the site or facility may have caused or allowed  
5 contamination of the site. It shall be the responsibility of  
6 the owner or operator seeking the permit or interim  
7 authorization to provide to the Agency all of the information  
8 necessary for the Agency to conduct its evaluation. The Agency  
9 may deny a permit or interim authorization if previous  
10 activities at the site may have caused or allowed  
11 contamination at the site, unless such contamination is  
12 authorized under any permit issued by the Agency.

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

18 (k) A development permit issued under subsection (a) of  
19 Section 39 for any facility or site which is required to have a  
20 permit under subsection (d) of Section 21 shall expire at the  
21 end of 2 calendar years from the date upon which it was issued,  
22 unless within that period the applicant has taken action to  
23 develop the facility or the site. In the event that review of  
24 the conditions of the development permit is sought pursuant to  
25 Section 40 or 41, or permittee is prevented from commencing  
26 development of the facility or site by any other litigation



1 beyond the permittee's control, such two-year period shall be  
2 deemed to begin on the date upon which such review process or  
3 litigation is concluded.

4 (l) No permit shall be issued by the Agency under this Act  
5 for construction or operation of any facility or site located  
6 within the boundaries of any setback zone established pursuant  
7 to this Act, where such construction or operation is  
8 prohibited.

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

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

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

26 (3) the specific information, if any, the Agency deems

1 the applicant did not provide in its application to the  
2 Agency; and

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

6 If no final action is taken by the Agency within 90 days  
7 after the filing of the application for permit, the applicant  
8 may deem the permit issued. Any applicant for a permit may  
9 waive the 90-day limitation by filing a written statement with  
10 the Agency.

11 The Agency shall issue permits for such facilities upon  
12 receipt of an application that includes a legal description of  
13 the site, a topographic map of the site drawn to the scale of  
14 200 feet to the inch or larger, a description of the operation,  
15 including the area served, an estimate of the volume of  
16 materials to be processed, and documentation that:

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

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

21 (3) the facility is located so as to minimize  
22 incompatibility with the character of the surrounding  
23 area, including at least a 200 foot setback from any  
24 residence, and in the case of a facility that is developed  
25 or the permitted composting area of which is expanded  
26 after November 17, 1991, the composting area is located at

1           least 1/8 mile from the nearest residence (other than a  
2           residence located on the same property as the facility);

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

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

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

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

23          The operator of any facility permitted under this  
24          subsection (m) must submit a written annual statement to the  
25          Agency on or before April 1 of each year that includes an  
26          estimate of the amount of material, in tons, received for

1 composting.

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

6 (o) (Blank).

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

25 When a permit applicant submits information to the Agency  
26 to supplement a permit application being reviewed by the

1 Agency, the applicant shall not be required to reissue the  
2 notice under this subsection.

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

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

22 (q) Within 6 months after July 12, 2011 (the effective  
23 date of Public Act 97-95), the Agency, in consultation with  
24 the regulated community, shall develop a web portal to be  
25 posted on its website for the purpose of enhancing review and  
26 promoting timely issuance of permits required by this Act. At

1 a minimum, the Agency shall make the following information  
2 available on the web portal:

3 (1) Checklists and guidance relating to the completion  
4 of permit applications, developed pursuant to subsection  
5 (s) of this Section, which may include, but are not  
6 limited to, existing instructions for completing the  
7 applications and examples of complete applications. As the  
8 Agency develops new checklists and develops guidance, it  
9 shall supplement the web portal with those materials.

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

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

1 modifications of major NPDES permits and associated water  
2 construction permits. The reports must be posted by  
3 February 1 and August 1 each year and shall include:

4 (A) the number of applications received for each  
5 type of permit, the number of applications on which  
6 the Agency has taken action, and the number of  
7 applications still pending; and

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

24 (r) Upon the request of the applicant, the Agency shall  
25 notify the applicant of the permit analyst assigned to the  
26 application upon its receipt.

1           (s) The Agency is authorized to prepare and distribute  
2 guidance documents relating to its administration of this  
3 Section and procedural rules implementing this Section.  
4 Guidance documents prepared under this subsection shall not be  
5 considered rules and shall not be subject to the Illinois  
6 Administrative Procedure Act. Such guidance shall not be  
7 binding on any party.

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

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

19           (v) If requested by the permit applicant, the Agency shall  
20 provide the permit applicant with a copy of the final permit  
21 prior to its issuance.

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

25           (x) If, before the expiration of a State operating permit  
26 that is issued pursuant to subsection (a) of this Section and



1 contains federally enforceable conditions limiting the  
2 potential to emit of the source to a level below the major  
3 source threshold for that source so as to exclude the source  
4 from the Clean Air Act Permit Program, the Agency receives a  
5 complete application for the renewal of that permit, then all  
6 of the terms and conditions of the permit shall remain in  
7 effect until final administrative action has been taken on the  
8 application for the renewal of the permit.

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

12 (z) If a mass animal mortality event is declared by the  
13 Department of Agriculture in accordance with the Animal  
14 Mortality Act:

15 (1) the owner or operator responsible for the disposal  
16 of dead animals is exempted from the following:

17 (i) obtaining a permit for the construction,  
18 installation, or operation of any type of facility or  
19 equipment issued in accordance with subsection (a) of  
20 this Section;

21 (ii) obtaining a permit for open burning in  
22 accordance with the rules adopted by the Board; and

23 (iii) registering the disposal of dead animals as  
24 an eligible small source with the Agency in accordance  
25 with Section 9.14 of this Act;

26 (2) as applicable, the owner or operator responsible

1 for the disposal of dead animals is required to obtain the  
2 following permits:

3 (i) an NPDES permit in accordance with subsection  
4 (b) of this Section;

5 (ii) a PSD permit or an NA NSR permit in accordance  
6 with Section 9.1 of this Act;

7 (iii) a lifetime State operating permit or a  
8 federally enforceable State operating permit, in  
9 accordance with subsection (a) of this Section; or

10 (iv) a CAAPP permit, in accordance with Section  
11 39.5 of this Act.

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

20 The Board shall adopt filing requirements and procedures  
21 that are necessary and appropriate for the issuance of CCR  
22 surface impoundment permits and that are consistent with this  
23 Act or regulations adopted by the Board, and with the RCRA, as  
24 amended, and regulations pursuant thereto.

25 The applicant shall make available to the public for  
26 inspection all documents submitted by the applicant to the

1 Agency in furtherance of an application, with the exception of  
2 trade secrets, on its public internet website as well as at the  
3 office of the county board or governing body of the  
4 municipality where CCR from the CCR surface impoundment will  
5 be permanently disposed. Such documents may be copied upon  
6 payment of the actual cost of reproduction during regular  
7 business hours of the local office.

8 The Agency shall issue a written statement concurrent with  
9 its grant or denial of the permit explaining the basis for its  
10 decision.

11 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;  
12 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

13 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

14 Sec. 40. Appeal of permit denial.

15 (a)(1) If the Agency refuses to grant or grants with  
16 conditions a permit under Section 39 of this Act, the  
17 applicant may, within 35 days after the date on which the  
18 Agency served its decision on the applicant, petition for a  
19 hearing before the Board to contest the decision of the  
20 Agency. However, the 35-day period for petitioning for a  
21 hearing may be extended for an additional period of time not to  
22 exceed 90 days by written notice provided to the Board from the  
23 applicant and the Agency within the initial appeal period. The  
24 Board shall give 21 days' notice to any person in the county  
25 where is located the facility in issue who has requested

1 notice of enforcement proceedings and to each member of the  
2 General Assembly in whose legislative district that  
3 installation or property is located; and shall publish that  
4 21-day notice in a newspaper of general circulation in that  
5 county. The Agency shall appear as respondent in such hearing.  
6 At such hearing the rules prescribed in Section 32 and  
7 subsection (a) of Section 33 of this Act shall apply, and the  
8 burden of proof shall be on the petitioner. If, however, the  
9 Agency issues an NPDES permit that imposes limits which are  
10 based upon a criterion or denies a permit based upon  
11 application of a criterion, then the Agency shall have the  
12 burden of going forward with the basis for the derivation of  
13 those limits or criterion which were derived under the Board's  
14 rules.

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

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

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

21           The provisions of this subsection do not apply to the  
22 granting of permits issued for the disposal or utilization of  
23 sludge from publicly owned sewage works.

24           (c) Any party to an Agency proceeding conducted pursuant  
25 to Section 39.3 of this Act may petition as of right to the  
26 Board for review of the Agency's decision within 35 days from

1 the date of issuance of the Agency's decision, provided that  
2 such appeal is not duplicative or frivolous. However, the  
3 35-day period for petitioning for a hearing may be extended by  
4 the applicant for a period of time not to exceed 90 days by  
5 written notice provided to the Board from the applicant and  
6 the Agency within the initial appeal period. If another person  
7 with standing to appeal wishes to obtain an extension, there  
8 must be a written notice provided to the Board by that person,  
9 the Agency, and the applicant, within the initial appeal  
10 period. The decision of the Board shall be based exclusively  
11 on the record compiled in the Agency proceeding. In other  
12 respects the Board's review shall be conducted in accordance  
13 with subsection (a) of this Section and the Board's procedural  
14 rules governing permit denial appeals.

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

25 (e)(1) If the Agency grants or denies a permit under  
26 subsection (b) of Section 39 of this Act, a third party, other

1 than the permit applicant or Agency, may petition the Board  
2 within 35 days from the date of issuance of the Agency's  
3 decision, for a hearing to contest the decision of the Agency.

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

6 (A) a demonstration that the petitioner raised the  
7 issues contained within the petition during the public  
8 notice period or during the public hearing on the NPDES  
9 permit application, if a public hearing was held; and

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

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

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

23 (g) If the Agency grants or denies a permit under  
24 subsection (y) of Section 39, a third party, other than the  
25 permit applicant or Agency, may appeal the Agency's decision  
26 as provided under federal law for CCR surface impoundment

1 permits.

2 (h) If the Agency grants or denies a permit for capture of  
3 carbon dioxide under subsection (b) of Section 9.20 or a  
4 permit for sequestration of carbon dioxide under Section  
5 22.63, including the disapproval of financial assurance under  
6 subsection (f), any person may petition the Board within 35  
7 days from the date of issuance of the Agency's decision for a  
8 hearing to contest the decision of the Agency.

9 (Source: P.A. 101-171, eff. 7-30-19; 102-558, eff. 8-20-21.)

10 Section 997. Severability. The provisions of this Act are  
11 severable under Section 1.31 of the Statute on Statutes.

12 Section 999. Effective date. This Act takes effect upon  
13 becoming law.



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