



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2421

Introduced 2/10/2023, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

See Index

Creates the Carbon Dioxide Transport and Storage Protections Act. Defines terms. Provides that (i) title to pore space belongs to and is vested in the surface owner of the overlying surface estate, (ii) a conveyance of title to a surface estate conveys title to the pore space in all strata underlying the surface estate, and (iii) title to pore space may not be severed from title to the surface estate. Notwithstanding any other provision of law, prohibits the amalgamation of pore space under the Eminent Domain Act. Contains requirements for valid amalgamation. Requires the Illinois Emergency Management Agency to determine a fee for carbon sequestration by rule. Creates the Carbon Transportation and Sequestration Readiness Fund and makes a conforming change in the State Finance Act. Requires the Illinois Emergency Management Agency and the Department of Public Health to conduct training with specified requirements. Contains other provisions. Amends the Illinois Power Agency Act. Makes changes to the definition of "sequester". Removes language requiring specified facilities to be clean coal facilities. Makes other changes. Amends the Carbon Dioxide Transportation and Sequestration Act. Contains requirements for receiving a certificate of authority. Makes other changes. Amends the Environmental Protection Act. Requires any person seeking to sequester carbon dioxide in Illinois to first obtain a carbon sequestration permit from the Agency. Contains other provisions and makes other changes. Contains a severability provision. Effective immediately.

LRB103 29079 CPF 55465 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. Legislative findings and objectives. The
7 General Assembly finds that:

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

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

17 (c) The storage of carbon dioxide in subsurface pore space
18 may have profound impacts upon the surface estate. Subsurface
19 carbon dioxide storage may require easements for pipelines,
20 injection wells, monitoring equipment, and other
21 infrastructure, harm crops and topsoil, and risks grave harm
22 to landowners, surrounding ecosystems, and water supplies if
23 carbon dioxide is released.

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

9 Section 10. Definitions. In this Act:

10 "Amalgamation" means the combining or uniting of property
11 rights in adjacent subsurface pore space for the permanent
12 storage of carbon dioxide.

13 "Area of review" has the same meaning as defined in
14 Section 3.121 of the Environmental Protection Act.

15 "Carbon dioxide injection well" means a well that is used
16 to inject carbon dioxide into a reservoir for permanent
17 geologic sequestration.

18 "Carbon dioxide pipeline" or "pipeline" means the in-state
19 portion of a pipeline, including appurtenant facilities,
20 property rights, and easements, that are used to transport
21 carbon dioxide.

22 "Carbon dioxide stream" means carbon dioxide, any
23 incidental associated substances derived from the source
24 materials and process of producing or capturing carbon
25 dioxide, and any substance added to the stream to enable or

1 improve the injection process or the detection of a leak or
2 rupture.

3 "Carbon dioxide sequestration reservoir" means a portion
4 of a sedimentary geologic stratum or formation containing pore
5 space, including, but not limited to, depleted reservoirs and
6 saline formations, that the Environmental Protection Agency
7 has determined is suitable for the injection and permanent
8 storage of carbon dioxide.

9 "Department" means the Department of Public Health.

10 "Easement" means an interest in land owned by another
11 person that conveys the right to use or control the land, or an
12 area above or below it, for a specific purpose, including, but
13 not limited to, the storage of carbon dioxide in subsurface
14 cavities.

15 "Fund" means the Carbon Transportation and Sequestration
16 Readiness Fund established under Section 35.

17 "Person" has the same meaning as defined in Section 3.315
18 of the Environmental Protection Act.

19 "Pipeline operator" means a person who owns, leases,
20 operates, controls, or supervises a pipeline that transports
21 carbon dioxide.

22 "Pore space" means subsurface cavities, voids, or saline
23 beds that can be used to store carbon dioxide.

24 "Pore space owner" means the person who has title to a pore
25 space.

26 "Sequester" has the same meaning as defined in Section

1 1-10 of the Illinois Power Agency Act.

2 "Sequestration" means to sequester or be sequestered.

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

12 "Sequestration operator" means a person who holds, is
13 applying for, or is required to obtain a carbon sequestration
14 permit under Section 22.63 of the Environmental Protection
15 Act.

16 "Sequestration pore space" means a pore space proposed,
17 authorized, or used for sequestering one or more carbon
18 dioxide streams in accordance with a permit or permit
19 application under Section 22.63 of the Environmental
20 Protection Act.

21 "Surface owner" means a person identified in the records
22 of the recorder of deeds for each county containing some
23 portion of a proposed carbon dioxide sequestration reservoir
24 as an owner of a whole or undivided fee simple interest or
25 other freehold interest in real property, including, but not
26 limited to, mineral rights, in the surface above the

1 sequestration pore space. "Surface owner" does not include an
2 owner of a right-of-way, easement, leasehold, or any other
3 lesser estate.

4 "Transportation" means the physical movement of carbon
5 dioxide by pipeline conducted for any person's use or on any
6 person's account.

7 Section 15. Ownership and conveyance of pore space.

8 (a) Title to pore space belongs to and is vested in the
9 surface owner of the overlying surface estate.

10 (b) A conveyance of title to a surface estate conveys
11 title to the pore space in all strata underlying the surface
12 estate.

13 (c) Title to pore space may not be severed from title to
14 the surface estate. A grant of easement for use of pore space
15 is not a severance prohibited under this subsection.

16 (d) A grant of easement for use of pore space shall not
17 confer any right to enter upon or otherwise use the surface of
18 the land unless the grant of easement expressly provides that
19 right.

20 Section 20. Compulsory amalgamation. Notwithstanding any
21 other provision of law, a sequestration operator may not
22 exercise any authority to take or acquire any easement or
23 title to any pore space or any portion of an area of review
24 under the Eminent Domain Act for amalgamation. For

1 amalgamation to be valid, a sequestration operator must
2 obtain, for the entirety of the area of review the person seeks
3 to use for carbon sequestration, either:

4 (1) a written grant of easement to enter into and use a
5 surface owner's portion of the proposed area of review for
6 carbon sequestration; or

7 (2) title to that portion of the proposed area of
8 review and overlying surface estate.

9 Section 25. Ownership of carbon dioxide; liability.

10 (a) A sequestration operator is solely liable for any and
11 all damage caused by carbon dioxide that is transported to the
12 sequestration operator's sequestration facility for injection
13 or sequestration or that is otherwise under the sequestration
14 operator's control, including, but not limited to, damage
15 caused by carbon dioxide released from the sequestration
16 facility, regardless of who holds title to the carbon dioxide,
17 the pore space, or the surface estate.

18 (b) A sequestration operator is solely liable for any and
19 all damage or harm that may result from equipment associated
20 with carbon sequestration, including, but not limited to,
21 operation of the equipment.

22 (c) Title to carbon dioxide sequestered in Illinois shall
23 not be vested in the owner of the sequestration pore space.
24 Sequestered carbon dioxide is a separate property independent
25 of the sequestration pore space.

1 Section 30. Carbon transportation and sequestration
2 emergency response fee. In addition to any permit fee
3 required under the Environmental Protection Act, all
4 sequestration operators and pipeline operators who transport
5 or sequester carbon dioxide in Illinois must pay a fee each
6 year to the Illinois Emergency Management Agency. The fee
7 shall be deposited in the Carbon Transportation and
8 Sequestration Readiness Fund. The fee amount shall be
9 determined by the Illinois Emergency Management Agency as a
10 set amount (i) per mile of approved pipeline for each carbon
11 dioxide pipeline, (ii) per square mile of area of review, and
12 (iii) per ton of carbon dioxide sequestered for each approved
13 carbon sequestration project. The fee shall be adjusted
14 annually for inflation and shall be in an amount determined by
15 the Illinois Emergency Management Agency as being more than
16 adequate to fund emergency preparedness and response costs for
17 units of local government through which a carbon pipeline
18 passes or in which carbon sequestration takes place.

19 Section 35. Carbon Transportation and Sequestration
20 Readiness Fund.

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

23 (b) The Fund shall consist of all moneys from fees
24 collected under Section 30, all interest earned on moneys in

1 the Fund, and any additional moneys allocated or appropriated
2 to the Fund by the General Assembly.

3 (c) Moneys in the Fund shall be used only to:

4 (1) cover administrative costs of the Illinois
5 Emergency Management Agency for administration of grants
6 awarded under this Section and costs to the Illinois
7 Emergency Management Agency and Department of Public
8 Health to cover costs of preparing the training materials
9 and offering the training sessions required under Section
10 40;

11 (2) provide funding to units of local government
12 through which a carbon pipeline passes or in which carbon
13 sequestration has been proposed or is taking place to
14 enhance emergency preparedness and emergency response
15 capabilities if a carbon dioxide release occurs; allowable
16 expenditures of moneys provided under this paragraph
17 include, but are not limited to:

18 (A) preparing emergency response plans for carbon
19 dioxide release;

20 (B) purchasing electric emergency response
21 vehicles;

22 (C) developing or maintaining a text message or
23 other emergency communication alert system;

24 (D) purchasing devices that assist in the
25 detection of a carbon dioxide release;

26 (E) equipment for first responders, local

1 residents, and medical facilities that assist in the
2 preparation for, detection of, or response to the
3 release of carbon dioxide or other toxic or hazardous
4 materials; and

5 (F) training and training materials for first
6 responders, local residents, businesses, and other
7 local entities to prepare for and respond to the
8 release of carbon dioxide or other toxic or hazardous
9 materials;

10 (3) fund research in technologies, other than those
11 for carbon capture and sequestration, that reduce the
12 potential for carbon dioxide pollution from industries
13 that are major sources of carbon dioxide, including, but
14 not limited to, steel and cement production; or

15 (4) fund research to better understand the scope of
16 potential carbon dioxide releases and methods to limit the
17 likelihood of a carbon dioxide release from a pipeline or
18 sequestration facility, including, but not limited to,
19 computer modeling to simulate carbon dioxide leaks from
20 pipelines of varying diameters and lengths.

21 All research funded under paragraphs (3) and (4) must be
22 included in a report published by the Illinois Emergency
23 Management Agency on its website and containing
24 recommendations for safety measures to protect communities
25 from carbon dioxide releases, such as hazard zones, setbacks,
26 additional monitoring, or other measures.

1 (d) The Fund shall be administered by the Illinois
2 Emergency Management Agency. The Illinois Emergency Management
3 Agency shall issue annual requests to relevant persons and
4 entities for proposals to receive Fund moneys and shall award
5 grants to qualified applicants who meet the criteria under
6 subsection (c) and any other criteria the Illinois Emergency
7 Management Agency deems necessary for the Fund to serve its
8 intended purpose. Illinois Emergency Management Agency shall
9 not limit the number of proposals an applicant may submit
10 under this subsection.

11 (e) The Fund is not subject to subsection (c) of Section 5
12 of the State Finance Act.

13 Section 40. Training for carbon dioxide emergencies.

14 (a) Within one year after the effective date of this Act,
15 the Environmental Protection Agency and the Department shall
16 jointly prepare training materials for local emergency
17 responders and medical personnel regarding what to do if
18 carbon dioxide is released from a pipeline or a sequestration
19 facility, including, but not limited to:

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

21 (2) communications protocols to quickly share
22 information about a carbon dioxide release;

23 (3) protocols for locating residents and others in the
24 affected area and, when necessary, transporting residents
25 out of the area to health care facilities; and

1 (4) symptoms of and treatment for exposure to a carbon
2 dioxide release.

3 (b) Each year, the Department of Public Health and the
4 Environmental Protection Agency shall offer at least 3
5 training sessions on emergency response protocols during
6 carbon dioxide releases for emergency responders and medical
7 personnel in any county in which carbon dioxide is proposed to
8 be, or is, transported or sequestered. Unless a health
9 emergency necessitates virtual training only, the training
10 sessions shall be in-person with the option to join remotely
11 and shall be recorded. The recordings shall be maintained on
12 the Environmental Protection Agency's and Department's
13 publicly available websites.

14 (c) Within one year after the effective date of this Act,
15 the Environmental Protection Agency and the Department shall
16 jointly prepare training materials for residents, businesses,
17 and other persons and entities located within 2 miles of a
18 carbon dioxide pipeline or above the area of review regarding
19 a carbon dioxide release. The training materials shall
20 include, but are not limited to:

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

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

24 (3) symptoms of exposure to a carbon dioxide release;
25 and

26 (4) recommendations for items residents and other

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

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

16 (e) Every 5 years, the Environmental Protection Agency and
17 the Department shall review and, if appropriate, revise the
18 training materials developed under this Section to incorporate
19 new best practices, technologies, developments, or information
20 that (i) improve emergency response and treatment for carbon
21 dioxide releases and (ii) may assist local residents and
22 businesses to be better prepared in the event of a carbon
23 dioxide release.

24 Section 45. The State Finance Act is amended by adding
25 Section 5.990 as follows:

1 (30 ILCS 105/5.990 new)

2 Sec. 5.990. The Carbon Transportation and Sequestration
3 Readiness Fund.

4 Section 50. The Illinois Power Agency Act is amended by
5 changing Sections 1-10 and 1-80 as follows:

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

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

17 "Authority" means the Illinois Finance Authority.

18 "Brownfield site photovoltaic project" means photovoltaics
19 that are either:

20 (1) interconnected to an electric utility as defined
21 in this Section, a municipal utility as defined in this
22 Section, a public utility as defined in Section 3-105 of
23 the Public Utilities Act, or an electric cooperative as

1 defined in Section 3-119 of the Public Utilities Act and
2 located at a site that is regulated by any of the following
3 entities under the following programs:

4 (A) the United States Environmental Protection
5 Agency under the federal Comprehensive Environmental
6 Response, Compensation, and Liability Act of 1980, as
7 amended;

8 (B) the United States Environmental Protection
9 Agency under the Corrective Action Program of the
10 federal Resource Conservation and Recovery Act, as
11 amended;

12 (C) the Illinois Environmental Protection Agency
13 under the Illinois Site Remediation Program; or

14 (D) the Illinois Environmental Protection Agency
15 under the Illinois Solid Waste Program; or

16 (2) located at the site of a coal mine that has
17 permanently ceased coal production, permanently halted any
18 re-mining operations, and is no longer accepting any coal
19 combustion residues; has both completed all clean-up and
20 remediation obligations under the federal Surface Mining
21 and Reclamation Act of 1977 and all applicable Illinois
22 rules and any other clean-up, remediation, or ongoing
23 monitoring to safeguard the health and well-being of the
24 people of the State of Illinois, as well as demonstrated
25 compliance with all applicable federal and State
26 environmental rules and regulations, including, but not

1 limited, to 35 Ill. Adm. Code Part 845 and any rules for
2 historic fill of coal combustion residuals, including any
3 rules finalized in Subdocket A of Illinois Pollution
4 Control Board docket R2020-019.

5 "Clean coal facility" means an electric generating
6 facility that uses primarily coal as a feedstock and that
7 captures and sequesters carbon dioxide emissions at the
8 following levels: at least 50% of the total carbon dioxide
9 emissions that the facility would otherwise emit if, at the
10 time construction commences, the facility is scheduled to
11 commence operation before 2016, at least 70% of the total
12 carbon dioxide emissions that the facility would otherwise
13 emit if, at the time construction commences, the facility is
14 scheduled to commence operation during 2016 or 2017, and at
15 least 90% of the total carbon dioxide emissions that the
16 facility would otherwise emit if, at the time construction
17 commences, the facility is scheduled to commence operation
18 after 2017. The power block of the clean coal facility shall
19 not exceed allowable emission rates for sulfur dioxide,
20 nitrogen oxides, carbon monoxide, particulates and mercury for
21 a natural gas-fired combined-cycle facility the same size as
22 and in the same location as the clean coal facility at the time
23 the clean coal facility obtains an approved air permit. All
24 coal used by a clean coal facility shall have high volatile
25 bituminous rank and greater than 1.7 pounds of sulfur per
26 million Btu ~~btu~~ content, unless the clean coal facility does

1 not use gasification technology and was operating as a
2 conventional coal-fired electric generating facility on June
3 1, 2009 (the effective date of Public Act 95-1027).

4 "Clean coal SNG brownfield facility" means a facility that
5 (1) has commenced construction by July 1, 2015 on an urban
6 brownfield site in a municipality with at least 1,000,000
7 residents; (2) uses a gasification process to produce
8 substitute natural gas; (3) uses coal as at least 50% of the
9 total feedstock over the term of any sourcing agreement with a
10 utility and the remainder of the feedstock may be either
11 petroleum coke or coal, with all such coal having a high
12 bituminous rank and greater than 1.7 pounds of sulfur per
13 million Btu content unless the facility reasonably determines
14 that it is necessary to use additional petroleum coke to
15 deliver additional consumer savings, in which case the
16 facility shall use coal for at least 35% of the total feedstock
17 over the term of any sourcing agreement; and (4) captures and
18 sequesters at least 85% of the total carbon dioxide emissions
19 that the facility would otherwise emit.

20 "Clean coal SNG facility" means a facility that uses a
21 gasification process to produce substitute natural gas, that
22 sequesters at least 90% of the total carbon dioxide emissions
23 that the facility would otherwise emit, that uses at least 90%
24 coal as a feedstock, with all such coal having a high
25 bituminous rank and greater than 1.7 pounds of sulfur per
26 million Btu ~~btu~~ content, and that has a valid and effective

1 permit to construct emission sources and air pollution control
2 equipment and approval with respect to the federal regulations
3 for Prevention of Significant Deterioration of Air Quality
4 (PSD) for the plant pursuant to the federal Clean Air Act;
5 provided, however, a clean coal SNG brownfield facility shall
6 not be a clean coal SNG facility.

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

9 "Commission" means the Illinois Commerce Commission.

10 "Community renewable generation project" means an electric
11 generating facility that:

12 (1) is powered by wind, solar thermal energy,
13 photovoltaic cells or panels, biodiesel, crops and
14 untreated and unadulterated organic waste biomass, and
15 hydropower that does not involve new construction or
16 significant expansion of hydropower dams;

17 (2) is interconnected at the distribution system level
18 of an electric utility as defined in this Section, a
19 municipal utility as defined in this Section that owns or
20 operates electric distribution facilities, a public
21 utility as defined in Section 3-105 of the Public
22 Utilities Act, or an electric cooperative, as defined in
23 Section 3-119 of the Public Utilities Act;

24 (3) credits the value of electricity generated by the
25 facility to the subscribers of the facility; and

26 (4) is limited in nameplate capacity to less than or

1 equal to 5,000 kilowatts.

2 "Costs incurred in connection with the development and
3 construction of a facility" means:

4 (1) the cost of acquisition of all real property,
5 fixtures, and improvements in connection therewith and
6 equipment, personal property, and other property, rights,
7 and easements acquired that are deemed necessary for the
8 operation and maintenance of the facility;

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

11 (3) all origination, commitment, utilization,
12 facility, placement, underwriting, syndication, credit
13 enhancement, and rating agency fees;

14 (4) engineering, design, procurement, consulting,
15 legal, accounting, title insurance, survey, appraisal,
16 escrow, trustee, collateral agency, interest rate hedging,
17 interest rate swap, capitalized interest, contingency, as
18 required by lenders, and other financing costs, and other
19 expenses for professional services; and

20 (5) the costs of plans, specifications, site study and
21 investigation, installation, surveys, other Agency costs
22 and estimates of costs, and other expenses necessary or
23 incidental to determining the feasibility of any project,
24 together with such other expenses as may be necessary or
25 incidental to the financing, insuring, acquisition, and
26 construction of a specific project and starting up,

1 commissioning, and placing that project in operation.

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

4 "Delivery year" means the consecutive 12-month period
5 beginning June 1 of a given year and ending May 31 of the
6 following year.

7 "Department" means the Department of Commerce and Economic
8 Opportunity.

9 "Director" means the Director of the Illinois Power
10 Agency.

11 "Demand-response" means measures that decrease peak
12 electricity demand or shift demand from peak to off-peak
13 periods.

14 "Distributed renewable energy generation device" means a
15 device that is:

16 (1) powered by wind, solar thermal energy,
17 photovoltaic cells or panels, biodiesel, crops and
18 untreated and unadulterated organic waste biomass, tree
19 waste, and hydropower that does not involve new
20 construction or significant expansion of hydropower dams,
21 waste heat to power systems, or qualified combined heat
22 and power systems;

23 (2) interconnected at the distribution system level of
24 either an electric utility as defined in this Section, a
25 municipal utility as defined in this Section that owns or
26 operates electric distribution facilities, or a rural

1 electric cooperative as defined in Section 3-119 of the
2 Public Utilities Act;

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

6 (4) (blank).

7 "Energy efficiency" means measures that reduce the amount
8 of electricity or natural gas consumed in order to achieve a
9 given end use. "Energy efficiency" includes voltage
10 optimization measures that optimize the voltage at points on
11 the electric distribution voltage system and thereby reduce
12 electricity consumption by electric customers' end use
13 devices. "Energy efficiency" also includes measures that
14 reduce the total Btus of electricity, natural gas, and other
15 fuels needed to meet the end use or uses.

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

18 "Equity investment eligible community" or "eligible
19 community" are synonymous and mean the geographic areas
20 throughout Illinois which would most benefit from equitable
21 investments by the State designed to combat discrimination.
22 Specifically, the eligible communities shall be defined as the
23 following areas:

24 (1) R3 Areas as established pursuant to Section 10-40
25 of the Cannabis Regulation and Tax Act, where residents
26 have historically been excluded from economic

1 opportunities, including opportunities in the energy
2 sector; and

3 (2) environmental ~~Environmental~~ justice communities,
4 as defined by the Illinois Power Agency pursuant to the
5 Illinois Power Agency Act, where residents have
6 historically been subject to disproportionate burdens of
7 pollution, including pollution from the energy sector.

8 "Equity eligible persons" or "eligible persons" means
9 persons who would most benefit from equitable investments by
10 the State designed to combat discrimination, specifically:

11 (1) persons who graduate from or are current or former
12 participants in the Clean Jobs Workforce Network Program,
13 the Clean Energy Contractor Incubator Program, the
14 Illinois Climate Works Preapprenticeship Program,
15 Returning Residents Clean Jobs Training Program, or the
16 Clean Energy Primes Contractor Accelerator Program, and
17 the solar training pipeline and multi-cultural jobs
18 program created in paragraphs (a) (1) and (a) (3) of Section
19 16-208.12 ~~16-108.21~~ of the Public Utilities Act;

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

22 (3) persons who were formerly incarcerated;

23 (4) persons whose primary residence is in an equity
24 investment eligible community.

25 "Equity eligible contractor" means a business that is
26 majority-owned by eligible persons, or a nonprofit or

1 cooperative that is majority-governed by eligible persons, or
2 is a natural person that is an eligible person offering
3 personal services as an independent contractor.

4 "Facility" means an electric generating unit or a
5 co-generating unit that produces electricity along with
6 related equipment necessary to connect the facility to an
7 electric transmission or distribution system.

8 "General contractor ~~Contractor~~" means the entity or
9 organization with main responsibility for the building of a
10 construction project and who is the party signing the prime
11 construction contract for the project.

12 "Governmental aggregator" means one or more units of local
13 government that individually or collectively procure
14 electricity to serve residential retail electrical loads
15 located within its or their jurisdiction.

16 "High voltage direct current converter station" means the
17 collection of equipment that converts direct current energy
18 from a high voltage direct current transmission line into
19 alternating current using Voltage Source Conversion technology
20 and that is interconnected with transmission or distribution
21 assets located in Illinois.

22 "High voltage direct current renewable energy credit"
23 means a renewable energy credit associated with a renewable
24 energy resource where the renewable energy resource has
25 entered into a contract to transmit the energy associated with
26 such renewable energy credit over high voltage direct current

1 transmission facilities.

2 "High voltage direct current transmission facilities"
3 means the collection of installed equipment that converts
4 alternating current energy in one location to direct current
5 and transmits that direct current energy to a high voltage
6 direct current converter station using Voltage Source
7 Conversion technology. "High voltage direct current
8 transmission facilities" includes the high voltage direct
9 current converter station itself and associated high voltage
10 direct current transmission lines. Notwithstanding the
11 preceding, after September 15, 2021 (the effective date of
12 Public Act 102-662) ~~this amendatory Act of the 102nd General~~
13 ~~Assembly~~, an otherwise qualifying collection of equipment does
14 not qualify as high voltage direct current transmission
15 facilities unless its developer entered into a project labor
16 agreement, is capable of transmitting electricity at 525kv
17 with an Illinois converter station located and interconnected
18 in the region of the PJM Interconnection, LLC, and the system
19 does not operate as a public utility, as that term is defined
20 in Section 3-105 of the Public Utilities Act.

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

24 "Indexed renewable energy credit" means a tradable credit
25 that represents the environmental attributes of one megawatt
26 hour of energy produced from a renewable energy resource, the

1 price of which shall be calculated by subtracting the strike
2 price offered by a new utility-scale wind project or a new
3 utility-scale photovoltaic project from the index price in a
4 given settlement period.

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

8 "Local government" means a unit of local government as
9 defined in Section 1 of Article VII of the Illinois
10 Constitution.

11 "Municipality" means a city, village, or incorporated
12 town.

13 "Municipal utility" means a public utility owned and
14 operated by any subdivision or municipal corporation of this
15 State.

16 "Nameplate capacity" means the aggregate inverter
17 nameplate capacity in kilowatts AC.

18 "Person" means any natural person, firm, partnership,
19 corporation, either domestic or foreign, company, association,
20 limited liability company, joint stock company, or association
21 and includes any trustee, receiver, assignee, or personal
22 representative thereof.

23 "Project" means the planning, bidding, and construction of
24 a facility.

25 "Project labor agreement" means a pre-hire collective
26 bargaining agreement that covers all terms and conditions of

1 employment on a specific construction project and must include
2 the following:

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

5 (2) provisions establishing the benefits and other
6 compensation for each class of labor organization
7 employee;

8 (3) provisions establishing that no strike or disputes
9 will be engaged in by the labor organization employees;

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

13 (5) provisions for minorities and women, as defined
14 under the Business Enterprise for Minorities, Women, and
15 Persons with Disabilities Act, setting forth goals for
16 apprenticeship hours to be performed by minorities and
17 women and setting forth goals for total hours to be
18 performed by underrepresented minorities and women.

19 A labor organization and the general contractor building
20 the project shall have the authority to include other terms
21 and conditions as they deem necessary.

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

24 "Qualified combined heat and power systems" means systems
25 that, either simultaneously or sequentially, produce
26 electricity and useful thermal energy from a single fuel

1 source. Such systems are eligible for "renewable energy
2 credits" in an amount equal to its total energy output where a
3 renewable fuel is consumed or in an amount equal to the net
4 reduction in nonrenewable fuel consumed on a total energy
5 output basis.

6 "Real property" means any interest in land together with
7 all structures, fixtures, and improvements thereon, including
8 lands under water and riparian rights, any easements,
9 covenants, licenses, leases, rights-of-way, uses, and other
10 interests, together with any liens, judgments, mortgages, or
11 other claims or security interests related to real property.

12 "Renewable energy credit" means a tradable credit that
13 represents the environmental attributes of one megawatt hour
14 of energy produced from a renewable energy resource.

15 "Renewable energy resources" includes energy and its
16 associated renewable energy credit or renewable energy credits
17 from wind, solar thermal energy, photovoltaic cells and
18 panels, biodiesel, anaerobic digestion, crops and untreated
19 and unadulterated organic waste biomass, and hydropower that
20 does not involve new construction or significant expansion of
21 hydropower dams, waste heat to power systems, or qualified
22 combined heat and power systems. For purposes of this Act,
23 landfill gas produced in the State is considered a renewable
24 energy resource. "Renewable energy resources" does not include
25 the incineration or burning of tires, garbage, general
26 household, institutional, and commercial waste, industrial

1 lunchroom or office waste, landscape waste, railroad
2 crossties, utility poles, or construction or demolition
3 debris, other than untreated and unadulterated waste wood.

4 "Renewable energy resources" also includes high voltage direct
5 current renewable energy credits and the associated energy
6 converted to alternating current by a high voltage direct
7 current converter station to the extent that: (1) the
8 generator of such renewable energy resource contracted with a
9 third party to transmit the energy over the high voltage
10 direct current transmission facilities, and (2) the
11 third-party contracting for delivery of renewable energy
12 resources over the high voltage direct current transmission
13 facilities have ownership rights over the unretired associated
14 high voltage direct current renewable energy credit.

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

17 "Revenue bond" means any bond, note, or other evidence of
18 indebtedness issued by the Authority, the principal and
19 interest of which is payable solely from revenues or income
20 derived from any project or activity of the Agency.

21 "Sequester" means permanent storage of carbon dioxide by
22 injecting it into a saline aquifer, a depleted ~~gas~~ reservoir,
23 or other pore space ~~or an oil reservoir, directly or through an~~
24 ~~enhanced oil recovery process that may involve intermediate~~
25 ~~storage, regardless of whether these activities are conducted~~
26 ~~by a clean coal facility, a clean coal SNG facility, a clean~~

1 ~~coal SNG brownfield facility, or a party with which a clean~~
2 ~~coal facility, clean coal SNG facility, or clean coal SNG~~
3 ~~brownfield facility has contracted for such purposes.~~

4 "Service area" has the same definition as found in Section
5 16-102 of the Public Utilities Act.

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

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

23 "Strike price" means a contract price for energy and
24 renewable energy credits from a new utility-scale wind project
25 or a new utility-scale photovoltaic project.

26 "Subscriber" means a person who (i) takes delivery service

1 from an electric utility, and (ii) has a subscription of no
2 less than 200 watts to a community renewable generation
3 project that is located in the electric utility's service
4 area. No subscriber's subscriptions may total more than 40% of
5 the nameplate capacity of an individual community renewable
6 generation project. Entities that are affiliated by virtue of
7 a common parent shall not represent multiple subscriptions
8 that total more than 40% of the nameplate capacity of an
9 individual community renewable generation project.

10 "Subscription" means an interest in a community renewable
11 generation project expressed in kilowatts, which is sized
12 primarily to offset part or all of the subscriber's
13 electricity usage.

14 "Substitute natural gas" or "SNG" means a gas manufactured
15 by gasification of hydrocarbon feedstock, which is
16 substantially interchangeable in use and distribution with
17 conventional natural gas.

18 "Total resource cost test" or "TRC test" means a standard
19 that is met if, for an investment in energy efficiency or
20 demand-response measures, the benefit-cost ratio is greater
21 than one. The benefit-cost ratio is the ratio of the net
22 present value of the total benefits of the program to the net
23 present value of the total costs as calculated over the
24 lifetime of the measures. A total resource cost test compares
25 the sum of avoided electric utility costs, representing the
26 benefits that accrue to the system and the participant in the

1 delivery of those efficiency measures and including avoided
2 costs associated with reduced use of natural gas or other
3 fuels, avoided costs associated with reduced water
4 consumption, and avoided costs associated with reduced
5 operation and maintenance costs, as well as other quantifiable
6 societal benefits, to the sum of all incremental costs of
7 end-use measures that are implemented due to the program
8 (including both utility and participant contributions), plus
9 costs to administer, deliver, and evaluate each demand-side
10 program, to quantify the net savings obtained by substituting
11 the demand-side program for supply resources. In calculating
12 avoided costs of power and energy that an electric utility
13 would otherwise have had to acquire, reasonable estimates
14 shall be included of financial costs likely to be imposed by
15 future regulations and legislation on emissions of greenhouse
16 gases. In discounting future societal costs and benefits for
17 the purpose of calculating net present values, a societal
18 discount rate based on actual, long-term Treasury bond yields
19 should be used. Notwithstanding anything to the contrary, the
20 TRC test shall not include or take into account a calculation
21 of market price suppression effects or demand reduction
22 induced price effects.

23 "Utility-scale solar project" means an electric generating
24 facility that:

25 (1) generates electricity using photovoltaic cells;

26 and

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

3 "Utility-scale wind project" means an electric generating
4 facility that:

5 (1) generates electricity using wind; and

6 (2) has a nameplate capacity that is greater than
7 5,000 kilowatts.

8 "Waste Heat to Power Systems" means systems that capture
9 and generate electricity from energy that would otherwise be
10 lost to the atmosphere without the use of additional fuel.

11 "Zero emission credit" means a tradable credit that
12 represents the environmental attributes of one megawatt hour
13 of energy produced from a zero emission facility.

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

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

19 (20 ILCS 3855/1-80)

20 Sec. 1-80. Resource Development Bureau. Upon its
21 establishment by the Agency, the Resource Development Bureau
22 has the following duties and responsibilities:

23 (a) At the Agency's discretion, conduct feasibility
24 studies on the construction of any facility. Funding for a
25 study shall come from either:

1 (i) fees assessed by the Agency on municipal
2 electric systems, governmental aggregators, unit or
3 units of local government, or rural electric
4 cooperatives requesting the feasibility study; or

5 (ii) an appropriation from the General Assembly.

6 (b) If the Agency undertakes the construction of a
7 facility, moneys generated from the sale of revenue bonds
8 by the Authority for the facility shall be used to
9 reimburse the source of the money used for the facility's
10 feasibility study.

11 (c) The Agency may develop, finance, construct, or
12 operate electric generation and co-generation facilities
13 that use ~~indigenous coal or~~ renewable resources, ~~or both,~~
14 financed with bonds issued by the Authority on behalf of
15 the Agency. ~~Any such facility that uses coal must be a~~
16 ~~clean coal facility and must be constructed in a location~~
17 ~~where the geology is suitable for carbon sequestration.~~
18 ~~The Agency may also develop, finance, construct, or~~
19 ~~operate a carbon sequestration facility.~~

20 (1) The Agency may enter into contractual
21 arrangements with private and public entities,
22 including but not limited to municipal electric
23 systems, governmental aggregators, and rural electric
24 cooperatives, to plan, site, construct, improve,
25 rehabilitate, and operate those electric generation
26 and co-generation facilities. No contract shall be

1 entered into by the Agency that would jeopardize the
2 tax-exempt status of any bond issued in connection
3 with a project for which the Agency entered into the
4 contract.

5 (2) The Agency shall hold at least one public
6 hearing before entering into any such contractual
7 arrangements. At least 30-days' notice of the hearing
8 shall be given by publication once in each week during
9 that period in 6 newspapers within the State, at least
10 one of which has a circulation area that includes the
11 location of the proposed facility.

12 (3) (Blank). ~~The first facility that the Agency~~
13 ~~develops, finances, or constructs shall be a facility~~
14 ~~that uses coal produced in Illinois. The Agency may,~~
15 ~~however, also develop, finance, or construct renewable~~
16 ~~energy facilities after work on the first facility has~~
17 ~~commenced.~~

18 (4) The Agency may not develop, finance, or
19 construct a nuclear power plant.

20 (5) The Agency shall assess fees to applicants
21 seeking to partner with the Agency on projects.

22 (d) Use of electricity generated by the Agency's
23 facilities. The Agency may supply electricity produced by
24 the Agency's facilities to municipal electric systems,
25 governmental aggregators, or rural electric cooperatives
26 in Illinois. The electricity shall be supplied at cost.

1 (1) Contracts to supply power and energy from the
2 Agency's facilities shall provide for the effectuation
3 of the policies set forth in this Act.

4 (2) The contracts shall also provide that,
5 notwithstanding any provision in the Public Utilities
6 Act, entities supplied with power and energy from an
7 Agency facility shall supply the power and energy to
8 retail customers at the same price paid to purchase
9 power and energy from the Agency.

10 (e) Electric utilities shall not be required to purchase
11 electricity directly or indirectly from facilities developed
12 or sponsored by the Agency.

13 (f) The Agency may sell excess capacity and excess energy
14 into the wholesale electric market at prevailing market rates;
15 provided, however, the Agency may not sell excess capacity or
16 excess energy through the procurement process described in
17 Section 16-111.5 of the Public Utilities Act.

18 (g) The Agency shall not directly sell electric power and
19 energy to retail customers. Nothing in this paragraph shall be
20 construed to prohibit sales to municipal electric systems,
21 governmental aggregators, or rural electric cooperatives.

22 (Source: P.A. 99-536, eff. 7-8-16.)

23 Section 55. The Carbon Dioxide Transportation and
24 Sequestration Act is amended by changing Sections 10, 15, and
25 20 as follows:

1 (220 ILCS 75/10)

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

3 "Carbon dioxide pipeline" or "pipeline" has the same
4 meaning as defined in Section 10 of the Carbon Dioxide
5 Transport and Storage Protections Act ~~means the in state~~
6 ~~portion of a pipeline, including appurtenant facilities,~~
7 ~~property rights, and easements, that are used exclusively for~~
8 ~~the purpose of transporting carbon dioxide to a point of sale,~~
9 ~~storage, enhanced oil recovery, or other carbon management~~
10 ~~application.~~

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

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

15 "Commission" means the Illinois Commerce Commission.

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

18 "Transportation" has the same meaning as defined in
19 Section 10 of the Carbon Dioxide Transport and Storage
20 Protections Act ~~means the physical movement of carbon dioxide~~
21 ~~by pipeline conducted for a person's own use or account or the~~
22 ~~use or account of another person or persons.~~

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

24 (220 ILCS 75/15)

1 Sec. 15. Scope. This Act applies to the application
2 process for the issuance of a certificate of authority by an
3 owner or operator of a pipeline designed, constructed, and
4 operated to transport and to sequester carbon dioxide ~~produced~~
5 ~~by a clean coal facility, by a clean coal SNG facility, or by~~
6 ~~any other source that will result in the reduction of carbon~~
7 ~~dioxide emissions from that source.~~

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

9 (220 ILCS 75/20)

10 Sec. 20. Application.

11 (a) No person or entity may construct, operate, or repair
12 a carbon dioxide pipeline unless the person or entity
13 possesses a certificate of authority.

14 (a-5) Before filing an application for a certificate of
15 authority with the Commission, a person or entity seeking the
16 certificate must:

17 (1) hold at least one informational public meeting in
18 each county in which the pipeline it seeks would be
19 located, at which the person or entity must:

20 (A) present a map of the proposed pipeline route
21 under consideration;

22 (B) provide, at a minimum, information about the
23 diameter of the pipeline it intends to propose, the
24 contents, flow rate, pressure, and temperature of the
25 pipeline, and the ancillary equipment associated with

1 the pipeline;

2 (C) present any emergency response plan it has
3 drafted or is preparing; and

4 (D) be prepared to answer questions from the
5 public concerning the pipeline.

6 (2) consult with the boards of all counties and, if
7 the proposed pipeline would pass through any
8 municipalities, all municipal governments through which
9 the pipeline would pass, on:

10 (A) zoning;

11 (B) emergency response planning;

12 (C) road crossings, road use, road repair, and
13 road bonding;

14 (D) right-of-way agreements for county and
15 municipal land; and

16 (E) pipeline abandonment;

17 (3) during at least one public meeting of the county
18 boards or municipal bodies with whom the consultation
19 is taking place, introduce a presentation on each
20 subject of the consultation and seek public input on
21 the information presented; and

22 (4) compile an accurate, verified list of all occupied
23 residences, businesses, schools, day cares, and health
24 care facilities located within 1.5 miles of the proposed
25 pipeline route.

26 The person or entity must submit the list compiled under

1 paragraph (4) to the county and municipal governments of any
2 county and municipality through which the proposed pipeline is
3 projected to pass before filing person or entity's application
4 under this Section.

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

9 (1) the application was properly filed;

10 (2) the applicant is fit, willing, and able to
11 construct and operate the pipeline in compliance with this
12 Act and with Commission regulations and orders of the
13 Commission or any applicable federal agencies;

14 (3) the applicant has entered into an agreement with a
15 clean coal facility, a clean coal SNG facility, or any
16 other source that will result in the reduction of carbon
17 dioxide emissions from that source;

18 (4) the applicant has filed with the Pipeline and
19 Hazardous Materials Safety Administration of the U.S.
20 Department of Transportation all forms required by that
21 agency in advance of constructing a carbon dioxide
22 pipeline;

23 (5) the applicant has filed with the U.S. Army Corps
24 of Engineers all applications for permits required by that
25 agency in advance of constructing a carbon dioxide
26 pipeline;

1 (6) the applicant has entered into an agreement with
2 the Illinois Department of Agriculture that governs the
3 mitigation of agricultural impacts associated with the
4 construction of the proposed pipeline;

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

8 (7.5) the applicant has demonstrated that its proposed
9 pipeline route would satisfy the setback mandates
10 established in Section 9.19 of the Illinois Environmental
11 Protection Act or that the applicant has obtained an
12 approved variance or adjusted standard from those setback
13 requirements from the Illinois Pollution Control Board;

14 (7.10) the applicant has submitted proof of receipt by
15 county and municipal government officials of counties and
16 municipalities through which the proposed pipeline will
17 pass of the list of all occupied residences, businesses,
18 schools, day cares, and health care facilities located
19 within 2 miles of its proposed pipeline route;

20 (7.15) the applicant has submitted proof that it has
21 obtained easements or title from all persons owning any
22 portion of the property the applicant seeks to utilize for
23 the construction, maintenance, or operation of the
24 proposed carbon dioxide pipeline;

25 (7.20) the applicant has provided an analysis of
26 geohazards, including, but not limited to, slope

1 instability, frost heave, soil settlement, erosion,
2 earthquakes, mine subsidence, or other dynamic geologic,
3 edaphic, and meteorological conditions along the proposed
4 pipeline route, and has demonstrated that the proposed
5 route avoids geohazards to the maximum extent possible;
6 and

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

12 (A) any evidence of the effect of the pipeline
13 upon the economy, infrastructure, environment, and
14 public safety presented by local governmental units
15 that will be affected by the proposed pipeline route;

16 (B) any evidence of the effect of the pipeline
17 upon property values presented by property owners who
18 will be affected by the proposed pipeline or facility,
19 provided that the Commission need not hear evidence as
20 to the actual valuation of property such as that as
21 would be presented to and determined by the courts
22 under the Eminent Domain Act;

23 (C) any evidence presented by the Department of
24 Commerce and Economic Opportunity regarding the
25 current and future local, State-wide, or regional
26 economic effect, direct or indirect, of the proposed

1 pipeline or facility including, but not limited to,
2 ability of the State to attract economic growth, meet
3 future energy requirements, and ensure compliance with
4 environmental requirements and goals;

5 (D) any evidence addressing the factors described
6 in items (1) through (8) of this subsection (b) or
7 other relevant factors that is presented by any other
8 State agency, the applicant, a party, or other entity
9 that participates in the proceeding, including
10 evidence presented by the Commission's staff; and

11 (E) any evidence presented by any State or federal
12 governmental entity as to how the proposed pipeline
13 will affect the security, stability, and reliability
14 of energy.

15 In its written order, the Commission shall address all of
16 the evidence presented, and if the order is contrary to any of
17 the evidence, the Commission shall state the reasons for its
18 determination with regard to that evidence.

19 (c) When an applicant files its application for a
20 certificate of authority with the Commission, it shall provide
21 notice to each local government where the proposed pipeline
22 will be located and include a map of the proposed pipeline
23 route. The applicant shall also publish notice in a newspaper
24 of general circulation in each county where the proposed
25 pipeline is located.

26 (d) An application for a certificate of authority filed

1 pursuant to this Section shall request either that the
2 Commission review and approve a specific route for a carbon
3 dioxide pipeline, or that the Commission review and approve a
4 project route width that identifies the areas in which the
5 pipeline would be located, with such width ranging from the
6 minimum width required for a pipeline right-of-way up to 200
7 feet in width. A map of the route or route width shall be
8 included in the application. The purpose for allowing the
9 option of review and approval of a project route width is to
10 provide increased flexibility during the construction process
11 to accommodate specific landowner requests, avoid
12 environmentally sensitive areas, or address special
13 environmental permitting requirements.

14 (e) The Commission's rules shall ensure that notice of an
15 application for a certificate of authority is provided within
16 30 days after filing to the landowners along a proposed
17 project route, or to the potentially affected landowners
18 within a proposed project route width, using the notification
19 procedures set forth in the Commission's rules. If the
20 Commission grants approval of a project route width as opposed
21 to a specific project route, then the applicant must, as it
22 finalizes the actual pipeline alignment within the project
23 route width, file its final list of affected landowners with
24 the Commission at least 14 days in advance of beginning
25 construction on any tract within the project route width and
26 also provide the Commission with at least 14 days' notice

1 before filing a complaint for eminent domain in the circuit
2 court with regard to any tract within the project route width.

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

9 (g) A final order of the Commission granting a certificate
10 of authority pursuant to this Act shall not be issued until the
11 applicant has obtained ~~be conditioned upon the applicant~~
12 ~~obtaining~~ all required permits or approvals from the Pipeline
13 and Hazardous Materials Safety Administration of the U.S.
14 Department of Transportation, U.S. Army Corps of Engineers,
15 and Illinois Department of Agriculture, in addition to all
16 other permits and approvals necessary for the construction and
17 operation of the pipeline prior to the start of any
18 construction. The final order must specifically prohibit the
19 start of any construction until all such permits and approvals
20 have been obtained.

21 (h) Within 6 months after the Commission's entry of an
22 order approving either a specific route or a project route
23 width under this Section, the owner or operator of the carbon
24 dioxide pipeline that receives that order may file
25 supplemental applications for minor route deviations outside
26 the approved project route width, allowing for additions or

1 changes to the approved route to address environmental
2 concerns encountered during construction or to accommodate
3 landowner requests. The supplemental application shall
4 specifically detail the environmental concerns or landowner
5 requests prompting the route changes, including the names of
6 any landowners or entities involved. Notice of a supplemental
7 application shall be provided to any State agency or unit of
8 local government that appeared in the original proceeding and
9 to any landowner affected by the proposed route deviation at
10 the time that supplemental application is filed. The route
11 deviations shall be approved by the Commission no sooner than
12 90 days after all interested parties receive notice of the
13 supplemental application, unless a written objection is filed
14 to the supplemental application within 45 days after such
15 notice is received. If a written objection is filed, then the
16 Commission shall issue an order either granting or denying the
17 route deviation within 90 days after the filing of the
18 objection. Hearings on any such supplemental application shall
19 be limited to the reasonableness of the specific variance
20 proposed, and the issues of the public interest and benefit of
21 the project or fitness of the applicant shall be considered
22 only to the extent that the route deviation has raised new
23 concerns with regard to those issues.

24 (i) A certificate of authority to construct and operate a
25 carbon dioxide pipeline issued by the Commission shall contain
26 and include ~~all of the following: (1)~~ a grant of authority to

1 construct and operate a carbon dioxide pipeline as requested
2 in the application, subject to the laws of this State, ~~and~~

3 ~~(2) a limited grant of authority to take and acquire~~
4 ~~an easement in any property or interest in property for~~
5 ~~the construction, maintenance, or operation of a carbon~~
6 ~~dioxide pipeline in the manner provided for the exercise~~
7 ~~of the power of eminent domain under the Eminent Domain~~
8 ~~Act. The limited grant of authority shall be restricted~~
9 ~~to, and exercised solely for, the purpose of siting,~~
10 ~~rights of way, and easements appurtenant, including~~
11 ~~construction and maintenance. The applicant shall not~~
12 ~~exercise this power until it has used reasonable and good~~
13 ~~faith efforts to acquire the property or easement thereto.~~
14 ~~The applicant may thereafter use this power when the~~
15 ~~applicant determines that the easement is necessary to~~
16 ~~avoid unreasonable delay or economic hardship to the~~
17 ~~progress of activities carried out pursuant to the~~
18 ~~certificate of authority.~~

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

20 Section 60. The Environmental Protection Act is amended by
21 changing Sections 21, 39, and 40 and by adding Sections 3.121,
22 3.132, 3.133, 3.134, 3.136, 3.446, 3.447, 9.19, 9.20, and
23 22.63 as follows:

24 (415 ILCS 5/3.121 new)

1 Sec. 3.121. Area of review. "Area of review" means the
2 region surrounding a geologic carbon dioxide sequestration
3 project where groundwater classified as Class 1, Class 2, or
4 Class 3 under 35 Ill. Adm. Code Part 620, Subpart B may be
5 endangered by the injection of carbon dioxide. An "area of
6 review" is delineated using computational modeling that
7 accounts for the physical and chemical properties of all
8 phases of the injected carbon dioxide stream and displaced
9 fluids and is based on available site characterization,
10 monitoring, and operational data specified in the Board's
11 rules adopted under Section 22.63.

12 (415 ILCS 5/3.132 new)

13 Sec. 3.132. Carbon dioxide capture project. "Carbon
14 dioxide capture project" means a project that uses a process
15 to separate carbon dioxide from industrial or energy-related
16 sources, other than oil or gas production from a well, and
17 produces a concentrated fluid of carbon dioxide. "Carbon
18 dioxide capture project" includes carbon dioxide captured as
19 part of a research and development project or a project funded
20 by research and development, unless the operator demonstrates
21 to the satisfaction of the Agency that the project meets
22 criteria for exclusion as a "carbon dioxide capture project"
23 under rules adopted by the Board under subsection (g) of
24 Section 9.20.

1 (415 ILCS 5/3.133 new)

2 Sec. 3.133. Carbon dioxide pipeline. "Carbon dioxide
3 pipeline" has the same meaning as defined in Section 10 of the
4 Carbon Dioxide Transportation and Sequestration Act.

5 (415 ILCS 5/3.134 new)

6 Sec. 3.134. Concentrated carbon dioxide fluid.
7 "Concentrated carbon dioxide fluid" means a fluid that
8 contains a concentration of carbon dioxide that is
9 proportionately greater than the ambient atmospheric
10 concentration of carbon dioxide.

11 (415 ILCS 5/3.136 new)

12 Sec. 3.136. Confining zone. "Confining zone" means a
13 geologic formation, a group of geologic formations, or part of
14 a geologic formation stratigraphically overlying a zone of
15 carbon dioxide injection that acts as a barrier to fluid
16 movement.

17 (415 ILCS 5/3.446 new)

18 Sec. 3.446. Sequestration. "Sequestration" has the same
19 meaning as defined in Section 10 of the Carbon Dioxide
20 Transport and Storage Protections Act.

21 (415 ILCS 5/3.447 new)

22 Sec. 3.447. Sequestration facility. "Sequestration

1 facility" has the same meaning as defined in Section 10 of the
2 Carbon Dioxide Transport and Storage Protections Act.

3 (415 ILCS 5/9.19 new)

4 Sec. 9.19. Setbacks from carbon dioxide pipelines.

5 (a) The General Assembly finds that:

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

9 (2) Setbacks from occupied structures and high-density
10 areas are necessary to protect against potential harm from
11 carbon dioxide pipeline leaks.

12 (b) No carbon dioxide pipeline, pump, or compressor
13 station may be located any closer than within:

14 (1) one mile of an occupied residential property,
15 except that if the occupied residential property is part
16 of a development that includes 10 or more occupied
17 residential properties the carbon dioxide pipeline may not
18 be located within 1.5 miles of the occupied residential
19 property;

20 (2) one mile of a commercial property containing a
21 business with fewer than 10 employees;

22 (3) one mile of a livestock facility containing 100
23 animals or more;

24 (4) 1.5 miles of a residential, commercial, or
25 industrial structure or facility that typically contain 10

1 or more persons;

2 (5) two miles of a structure containing 10 or more
3 persons with limited mobility, including, but not limited
4 to, nursing homes and hospitals; or

5 (6) two miles of a structure with a permitted
6 occupancy of 100 or more persons, including, but not
7 limited to, schools, places of worship, shopping
8 facilities, and entertainment facilities.

9 (c) Setback distances from carbon dioxide pipelines shall
10 be measured from the center line of the carbon dioxide
11 pipeline. Setback distances from pumps and compressor stations
12 shall be measured from the property line of the pump or
13 compressor station.

14 (d) A unit of local government may require setbacks
15 greater than the minimums established under this Section.

16 (e) No adjusted standard, variance, or other regulatory
17 relief otherwise available under this Act may be granted for
18 the minimum setback mandates of this Section unless, in
19 addition to satisfying the general requirements for an
20 adjusted standard under Section 28.1 or the standards for a
21 variance under Section 35, as applicable, a person seeking to
22 build or operate a carbon dioxide pipeline includes in the
23 petition for an adjusted standard or variance:

24 (1) computational fluid dynamic computer modeling
25 showing the dispersion of a plume of carbon dioxide
26 following a worst-case rupture of the proposed carbon

1 dioxide pipeline, considering the rupture in both typical
2 and still-air weather conditions in topography typical in
3 the applicable county;

4 (2) data and analysis demonstrating that the carbon
5 dioxide pipeline is proposed to be constructed a
6 sufficient distance from an occupied structure so that
7 carbon dioxide concentrations in or near the occupied
8 structure will not intoxicate, asphyxiate, or otherwise
9 harm the health of any humans or livestock therein; and

10 (3) an explanation of the reasons that the setbacks
11 established under this Section are not practicable.

12 (415 ILCS 5/9.20 new)

13 Sec. 9.20. Carbon dioxide capture.

14 (a) The General Assembly finds that:

15 (1) The capture of carbon dioxide from industrial
16 facilities, including, but not limited to, ethanol plants
17 and methane processing facilities, and electric-generation
18 facilities requires a significant amount of power to
19 undertake, the generation of which can increase harmful
20 air and water pollutants.

21 (2) The capture of carbon dioxide generally requires
22 significant volumes of water that could be used for
23 domestic, agricultural, recreational, or industrial uses.

24 (3) The capture of carbon dioxide from industrial and
25 electric-generation facilities has often failed to meet

1 objectives for capture and thus allowed more carbon
2 dioxide pollution into the atmosphere than proposed.

3 (4) The State of Illinois has a long-standing policy
4 to restore, protect, and enhance the environment,
5 including the purity of the air, land, and waters, such as
6 groundwaters, of this State.

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

9 (6) The capture of carbon dioxide from industrial and
10 electric-generation facilities will not achieve Illinois'
11 longstanding policy to restore, protect, and enhance the
12 environment unless clear standards are adopted to require
13 the reduction of air and water pollution associated with
14 carbon capture, to limit water use when other important
15 uses are in jeopardy, and to ensure that carbon capture
16 does not interfere with Illinois reaching its clean energy
17 goals.

18 (7) Meaningful participation of State residents,
19 especially vulnerable populations who may be affected by
20 regulatory actions, is critical to ensure that
21 environmental justice considerations are incorporated in
22 the development of, decision-making related to, and
23 implementation of environmental laws and rules that
24 protect and improve the well-being of communities in this
25 State that bear disproportionate burdens imposed by
26 environmental pollution.

1 (a-5) The purpose of this Section is to promote a
2 healthful environment, including clean water, air, and land,
3 meaningful public involvement, and to ensure only the
4 responsible capture of carbon dioxide occurs in Illinois so as
5 to protect public health and to prevent pollution of the
6 environment.

7 (a-10) The provisions of this Section shall be liberally
8 construed to carry out the purpose of this Section as stated in
9 subsection (a-5).

10 (b) A person who seeks to construct or operate a carbon
11 dioxide capture project in Illinois must first obtain a permit
12 from the Agency in accordance with the rules adopted under
13 subsection (g).

14 (c) A person who seeks to capture carbon dioxide from an
15 industrial or electric-generation facility in Illinois must,
16 before seeking a permit in accordance with the rules adopted
17 under subsection (g), first conduct an environmental impact
18 analysis. The environmental impact analysis must:

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

21 (2) include a greenhouse gas (GHG) inventory analysis,
22 including, but not limited to, Scope 1, 2, and 3 emissions
23 set forth in guidance published by the United States
24 Environmental Protection Agency, of the total GHG
25 emissions associated with the carbon dioxide capture
26 project, together with a demonstration that the Scope 1,

1 2, and 3 GHG emissions associated with the carbon dioxide
2 capture project, converted into carbon dioxide equivalent
3 consistent with rules adopted and guidance published by
4 the United States Environmental Protection Agency by rule,
5 will not exceed the total amount of GHG emissions
6 associated with the carbon dioxide capture project on an
7 annual basis for each year the project remains in
8 operation;

9 (3) include a water impact analysis that details:

10 (A) the water sources likely to be impacted by the
11 capture of carbon dioxide from the facility;

12 (B) current uses of those water sources;

13 (C) potential or certain impacts to those water
14 sources from capture of carbon dioxide from the
15 facility, including, but not limited to, impacts on
16 water quantity, quality, and the current use of water;

17 (D) the duration of the impacts to water
18 associated with the capture of carbon dioxide from the
19 facility; and

20 (E) methods the applicant will use to minimize
21 both water use and impacts to water quality associated
22 with the capture dioxide capture project;

23 (4) include an alternatives analysis that evaluates
24 other reasonable alternatives for reducing the same
25 quantity of carbon dioxide as is proposed to be captured
26 at the facility, including, but not limited to:

1 (A) if the carbon dioxide is proposed to be
2 captured at a facility that generates electricity,
3 energy-generation alternatives such as renewable
4 energy, energy storage, or energy efficiency;

5 (B) if the carbon dioxide is proposed to be
6 captured at a facility that produces fuel for vehicles
7 or equipment, alternatives such as the use of electric
8 vehicles; and

9 (C) if the carbon dioxide is proposed to be
10 captured at an industrial facility, alternative
11 industrial processes that could reduce the amount of
12 carbon dioxide generated from that industry;

13 for each alternative identified under this paragraph
14 (4), the person seeking to capture carbon dioxide shall
15 complete a greenhouse gas emissions inventory and analysis
16 of the alternative consistent with subparagraph (B) and a
17 water impacts analysis addressing the factors set out in
18 subparagraph (C); and

19 (5) be developed with public input, including, but not
20 limited to, by making a draft version of the analysis
21 available on a public website for not less than 60 days and
22 accepting comments on the proposed analysis for the
23 entirety of that 60-period, together with a public meeting
24 at least 14 days after the posting of the draft on the
25 public website that provides a meaningful opportunity for
26 the public to ask questions, have those questions

1 answered, and provide comment on the draft; the final
2 environmental analysis must include responses to public
3 comments, identify all changes to the analysis made in
4 response to those comments, and be made available to the
5 public on a public website.

6 (d) No permit for the capture of carbon dioxide may be
7 issued unless:

8 (1) the Illinois State Water Survey has reviewed the
9 water impact analysis required under subsection (c),
10 information concerning water supply and uses, and public
11 comments and has concluded that the proposed carbon
12 capture project will not have significant adverse effects
13 on water supply or current or future potential uses of the
14 water source; and

15 (2) the permit sets out conditions:

16 (A) developed in consultation with the Illinois
17 State Water Survey;

18 (B) that take public comments into consideration;

19 (C) under which the project operator must reduce
20 the volume or rate of water that may be used for the
21 capture of carbon dioxide; and

22 (D) under which the use of water for carbon
23 capture must be halted altogether.

24 (e) No permit for the capture of carbon dioxide may be
25 issued unless the permit applicant demonstrates that there
26 will be zero noncarbon dioxide air pollution emissions

1 associated with the carbon dioxide capture project, including,
2 but not limited to, emissions emitted directly by the
3 operation of the carbon dioxide capture equipment itself and
4 any increase in emissions at the facility from which carbon
5 dioxide is captured relative to the baseline following
6 installation of the carbon dioxide capture process. The
7 applicant may meet this requirement by demonstrating that:

8 (1) pollution control technology will be installed and
9 operated, or existing control technology will be operated,
10 so as to eliminate any noncarbon dioxide air emissions
11 associated with the use of carbon capture; or

12 (2) the facility will reduce operations sufficient to
13 eliminate any noncarbon dioxide air emissions associated
14 with the use of carbon capture.

15 The Board shall establish requirements by rule for
16 determining baseline emissions from each industrial or
17 electric-generation facility for purposes of determining which
18 noncarbon dioxide air emissions are associated with the use of
19 carbon capture at those facilities. For existing facilities,
20 the baseline shall be calculated using the 12-month average of
21 emissions for the three 12-month periods before January 31,
22 2023. For new facilities, the baseline shall be determined
23 using the best available control technology for the relevant
24 air pollutants and facility and assuming fuel consumption and
25 hours of operation of the facility consistent with that of
26 facilities of similar size.

1 (f) No permit for a carbon dioxide capture project may be
2 issued unless:

3 (1) the operator can identify the end use or
4 destination of all carbon dioxide streams from the
5 proposed project;

6 (2) if the destination includes sequestration within
7 the State, the operator demonstrates that the
8 sequestration site is permitted in accordance with Section
9 22.63;

10 (3) the applicant demonstrates that the project will
11 capture an annual average of no less than 90% of the total
12 carbon dioxide emissions from the facility; and

13 (4) the permit disallows all noncarbon dioxide air
14 emissions associated with the use of carbon capture and
15 specifies each mechanism by which the applicant must meet
16 that condition.

17 (g) The Board shall adopt rules establishing permit
18 requirements under this Section and other standards for carbon
19 dioxide capture projects. The rules shall be proposed by the
20 Agency not later than one year after the effective date of this
21 amendatory Act of the 103rd General Assembly and adopted by
22 the Board not later than 2 years after receipt of the Agency's
23 proposal. The rules must, at a minimum:

24 (1) be no less protective than federal and State
25 requirements for air pollution and water pollution;

26 (2) specify the minimum content of applications for a

1 permit to capture carbon dioxide, which shall include, but
2 shall not be limited to:

3 (A) the environmental impacts analyses required
4 under subsection (c);

5 (B) identification of whether the proposed carbon
6 capture project would take place in an area of
7 environmental justice concern; and

8 (C) documentation and analyses sufficient to
9 demonstrate compliance with all applicable rules
10 adopted under this Section for the capture of carbon
11 dioxide from industrial and electric-generation
12 facilities;

13 (3) specify:

14 (A) the frequency at which permits for the capture
15 of carbon dioxide expire and must be renewed;

16 (B) the circumstances under which a permittee must
17 seek a permit modification; and

18 (C) the circumstances under which the Agency may
19 temporarily or permanently revoke a permit for the
20 capture of carbon dioxide;

21 (4) specify standards for review, approval, and denial
22 of applications for a permit to capture carbon dioxide by
23 the Agency; the standards for denial must include, but are
24 not limited to, failure of the applicant to submit an
25 environmental impacts analysis meeting the requirements
26 under subsection (c) or to satisfy the requirements of

1 subsection (e);

2 (5) specify meaningful procedures for public
3 participation in the issuance of permits for the capture
4 of carbon dioxide, including, but not limited to:

5 (A) public notice of the submission of permit
6 applications;

7 (B) posting the full permit application, the draft
8 and final permitting actions by the Agency, and the
9 Agency's response to comments on a public website;

10 (C) an opportunity for the submission of public
11 comments;

12 (D) an opportunity for a public hearing prior
13 before the permit is issued; and

14 (E) a summary and response of the comments
15 prepared by the Agency;

16 (6) when the capture of carbon dioxide is proposed to
17 take place in an area of environmental justice concern,
18 specify further opportunities for public participation,
19 including, but not limited to, public meetings,
20 translations of relevant documents into other languages
21 for residents with limited English proficiency, and
22 interpretation 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:

3 (A) the noncarbon dioxide air emissions associated
4 with the use of carbon capture, including, but not
5 limited to, those emissions resulting from the use of
6 fuel to power the carbon capture process;

7 (B) GHG emissions associated with the use of
8 carbon capture;

9 (C) the total amount, in tons, of carbon dioxide
10 captured at the facility;

11 (D) the total amount, in tons, of carbon dioxide
12 not captured and released into the atmosphere at the
13 facility;

14 (E) the date, time, duration, cause, and amount of
15 carbon dioxide released rather than captured as a
16 result of all outages or downtime of capture equipment
17 at the facility;

18 (F) information concerning water use and impacts
19 to water supply and uses associated with the use of
20 carbon capture at the facility; and

21 (G) the end use and destination of all carbon
22 dioxide streams from the project;

23 (9) establish criteria for the exclusion from
24 permitting requirements of carbon capture projects
25 performed for the purpose of, or financed by funding for,
26 research and development; the criteria shall ensure that

1 only those projects that capture small amounts of carbon
2 dioxide and pose minimal risk to human health and the
3 environmental qualify for the exclusion; and

4 (10) specify whether the permit requirements for
5 carbon dioxide capture set out in the rules may be added to
6 the requirements for a permit that a carbon dioxide
7 capture permit applicant is otherwise required to obtain,
8 or whether the applicant must obtain a separate permit for
9 the capture of carbon dioxide.

10 (h) The permit requirements set forth in this Section are
11 in addition to any requirements set forth under any other
12 State or federal law, including, but not limited to, the
13 federal Clean Air Act, the federal Clean Water Act, the
14 federal Resource Conservation and Recovery Act, and the
15 federal Safe Water Drinking Act.

16 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

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

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

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

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

1 (d) Conduct any waste-storage, waste-treatment, or
2 waste-disposal operation:

3 (1) without a permit granted by the Agency or in
4 violation of any conditions imposed by such permit,
5 including periodic reports and full access to adequate
6 records and the inspection of facilities, as may be
7 necessary to assure compliance with this Act and with
8 regulations and standards adopted thereunder; provided,
9 however, that, except for municipal solid waste landfill

10 units that receive waste on or after October 9, 1993, and
11 CCR surface impoundments, no permit shall be required for

12 (i) any person conducting a waste-storage,
13 waste-treatment, or waste-disposal operation for wastes
14 generated by such person's own activities which are
15 stored, treated, or disposed within the site where such
16 wastes are generated, (ii) until one year after the
17 effective date of rules adopted by the Board under
18 subsection (n) of Section 22.38, a facility located in a
19 county with a population over 700,000 as of January 1,
20 2000, operated and located in accordance with Section
21 22.38 of this Act, and used exclusively for the transfer,
22 storage, or treatment of general construction or
23 demolition debris, provided that the facility was
24 receiving construction or demolition debris on August 24,
25 2009 (the effective date of Public Act 96-611), or (iii)
26 any person conducting a waste transfer, storage,

1 treatment, or disposal operation, including, but not
2 limited to, a waste transfer or waste composting
3 operation, under a mass animal mortality event plan
4 created by the Department of Agriculture;

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

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

26 Item (3) of this subsection (d) shall not apply to any

1 person engaged in agricultural activity who is disposing of a
2 substance that constitutes solid waste, if the substance was
3 acquired for use by that person on his own property, and the
4 substance is disposed of on his own property in accordance
5 with regulations or standards adopted by the Board.

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

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

12 (f) Conduct any hazardous waste-storage, hazardous
13 waste-treatment or hazardous waste-disposal operation:

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

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

23 (3) in violation of any RCRA permit filing requirement
24 established under standards adopted by the Board under
25 this Act; or

26 (4) in violation of any order adopted by the Board

1 under this Act.

2 Notwithstanding the above, no RCRA permit shall be
3 required under this subsection or subsection (d) of Section 39
4 of this Act for any person engaged in agricultural activity
5 who is disposing of a substance which has been identified as a
6 hazardous waste, and which has been designated by Board
7 regulations as being subject to this exception, if the
8 substance was acquired for use by that person on his own
9 property and the substance is disposed of on his own property
10 in accordance with regulations or standards adopted by the
11 Board.

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

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

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

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

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

26 (j) Conduct any special waste-transportation operation in

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

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

19 (l) Locate a hazardous waste disposal site above an active
20 or inactive shaft or tunneled mine or within 2 miles of an
21 active fault in the earth's crust. In counties of population
22 less than 225,000 no hazardous waste disposal site shall be
23 located (1) within 1 1/2 miles of the corporate limits as
24 defined on June 30, 1978, of any municipality without the
25 approval of the governing body of the municipality in an
26 official action; or (2) within 1000 feet of an existing

1 private well or the existing source of a public water supply
2 measured from the boundary of the actual active permitted site
3 and excluding existing private wells on the property of the
4 permit applicant. The provisions of this subsection do not
5 apply to publicly owned sewage works or the disposal or
6 utilization of sludge from publicly owned sewage works.

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

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

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

19 (1) refuse in standing or flowing waters;

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

21 (3) leachate flows exiting the landfill confines (as
22 determined by the boundaries established for the landfill
23 by a permit issued by the Agency);

24 (4) open burning of refuse in violation of Section 9
25 of this Act;

26 (5) uncovered refuse remaining from any previous

1 operating day or at the conclusion of any operating day,
2 unless authorized by permit;

3 (6) failure to provide final cover within time limits
4 established by Board regulations;

5 (7) acceptance of wastes without necessary permits;

6 (8) scavenging as defined by Board regulations;

7 (9) deposition of refuse in any unpermitted portion of
8 the landfill;

9 (10) acceptance of a special waste without a required
10 manifest;

11 (11) failure to submit reports required by permits or
12 Board regulations;

13 (12) failure to collect and contain litter from the
14 site by the end of each operating day;

15 (13) failure to submit any cost estimate for the site
16 or any performance bond or other security for the site as
17 required by this Act or Board rules.

18 The prohibitions specified in this subsection (o) shall be
19 enforceable by the Agency either by administrative citation
20 under Section 31.1 of this Act or as otherwise provided by this
21 Act. The specific prohibitions in this subsection do not limit
22 the power of the Board to establish regulations or standards
23 applicable to sanitary landfills.

24 (p) In violation of subdivision (a) of this Section, cause
25 or allow the open dumping of any waste in a manner which
26 results in any of the following occurrences at the dump site:

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

13 The prohibitions specified in this subsection (p) shall be
14 enforceable by the Agency either by administrative citation
15 under Section 31.1 of this Act or as otherwise provided by this
16 Act. The specific prohibitions in this subsection do not limit
17 the power of the Board to establish regulations or standards
18 applicable to open dumping.

19 (q) Conduct a landscape waste composting operation without
20 an Agency permit, provided, however, that no permit shall be
21 required for any person:

22 (1) conducting a landscape waste composting operation
23 for landscape wastes generated by such person's own
24 activities which are stored, treated, or disposed of
25 within the site where such wastes are generated; or

26 (1.5) conducting a landscape waste composting

1 operation that (i) has no more than 25 cubic yards of
2 landscape waste, composting additives, composting
3 material, or end-product compost on-site at any one time
4 and (ii) is not engaging in commercial activity; or

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

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

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

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

20 (B) the property on which the composting facility
21 is located, and any associated property on which the
22 compost is used, is principally and diligently devoted
23 to the production of agricultural crops and is not
24 owned, leased, or otherwise controlled by any waste
25 hauler or generator of nonagricultural compost
26 materials, and the operator of the composting facility

1 is not an employee, partner, shareholder, or in any
2 way connected with or controlled by any such waste
3 hauler or generator;

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

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

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

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

14 (3) operating a landscape waste composting facility on
15 a farm, if the facility meets all of the following
16 criteria:

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

25 (A-1) the composting facility accepts from other
26 agricultural operations for composting with landscape

1 waste no materials other than uncontaminated and
2 source-separated (i) crop residue and other
3 agricultural plant residue generated from the
4 production and harvesting of crops and other customary
5 farm practices, including, but not limited to, stalks,
6 leaves, seed pods, husks, bagasse, and roots and (ii)
7 plant-derived animal bedding, such as straw or
8 sawdust, that is free of manure and was not made from
9 painted or treated wood;

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

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

25 (C) all compost generated by the composting
26 facility is applied at agronomic rates and used as

1 mulch, fertilizer or soil conditioner on land actually
2 farmed by the person operating the composting
3 facility, and the finished compost is not stored at
4 the composting site for a period longer than 18 months
5 prior to its application as mulch, fertilizer, or soil
6 conditioner;

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

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

18 (II) was placed outside the boundary of the
19 10-year floodplain or on a part of the site that is
20 floodproofed;

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

1 lesser distance from the nearest residence (other
2 than a residence located on the same property as
3 the facility) provided that the municipality or
4 county in which the facility is located has by
5 ordinance approved a lesser distance than 1/4 mile
6 and there are not more than 10 occupied non-farm
7 residences within 1/2 mile of the boundaries of
8 the site on the date of application; and

9 (IV) was placed more than 5 feet above the
10 water table.

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

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

21 (r) Cause or allow the storage or disposal of coal
22 combustion waste unless:

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

1 (2) such waste is stored or disposed of as a part of
2 the design and reclamation of a site or facility which is
3 an abandoned mine site in accordance with the Abandoned
4 Mined Lands and Water Reclamation Act; or

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

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

21 (ii) the owner or operator of the facility
22 demonstrates all of the following to the Agency, and
23 the facility is operated in accordance with the
24 demonstration as approved by the Agency: (1) the
25 disposal area will be covered in a manner that will
26 support continuous vegetation, (2) the facility will

1 be adequately protected from wind and water erosion,
2 (3) the pH will be maintained so as to prevent
3 excessive leaching of metal ions, and (4) adequate
4 containment or other measures will be provided to
5 protect surface water and groundwater from
6 contamination at levels prohibited by this Act, the
7 Illinois Groundwater Protection Act, or regulations
8 adopted pursuant thereto.

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

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

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

25 (u) Conduct any vegetable by-product treatment, storage,
26 disposal or transportation operation in violation of any

1 regulation, standards or permit requirements adopted by the
2 Board under this Act. However, no permit shall be required
3 under this Title V for the land application of vegetable
4 by-products conducted pursuant to Agency permit issued under
5 Title III of this Act to the generator of the vegetable
6 by-products. In addition, vegetable by-products may be
7 transported in this State without a special waste hauling
8 permit, and without the preparation and carrying of a
9 manifest.

10 (v) (Blank).

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

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

24 (x) Conduct any carbon sequestration operation:

25 (1) without a permit granted by the Agency in
26 accordance with Section 22.63 and any rules adopted under

1 that Section, or in violation of any condition imposed by
2 the permit, including periodic reports and full access to
3 adequate records and the inspection of facilities as may
4 be necessary to ensure compliance with this Act and any
5 rules or standards adopted under this Act;

6 (2) in violation of this Act or any rules or standards
7 adopted by the Board under this Act; or

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

10 (y) Inject any concentrated carbon dioxide fluid produced
11 by a carbon dioxide capture project into a Class II well for
12 purposes of enhanced oil recovery, including, but not limited
13 to, the facilitation of enhanced oil recovery from another
14 well.

15 (z) Sell or transport concentrated carbon dioxide fluid
16 produced by a carbon dioxide capture project for use in
17 enhanced oil recovery.

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

21 (415 ILCS 5/22.63 new)

22 Sec. 22.63. Carbon sequestration.

23 (a) The General Assembly finds that:

24 (1) The State of Illinois has a long-standing policy
25 to restore, protect, and enhance the environment,

1 including the purity of the air, land, and waters,
2 including groundwaters, of this State.

3 (2) A clean environment is essential to the growth and
4 well-being of this State.

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

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

20 (a-5) The purpose of this Section is to promote a
21 healthful environment, including clean water, air, and land,
22 meaningful public involvement and to ensure only responsible
23 sequestration of carbon dioxide occurs in Illinois so as to
24 protect public health and to prevent pollution of the
25 environment.

26 (a-10) The provisions of this Section shall be liberally

1 construed to carry out the purposes of this Section.

2 (b) Any person seeking to sequester carbon dioxide in
3 Illinois must first obtain a carbon sequestration permit from
4 the Agency in accordance with the rules developed under
5 subsection (h).

6 (c) Any person seeking to sequester carbon dioxide in
7 Illinois must, before seeking a carbon sequestration permit in
8 accordance with the rules developed under subsection (h),
9 first conduct an environmental impact analysis. The
10 environmental impact analysis must:

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

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

25 (3) include a water impact analysis that details:

26 (A) the water sources likely to be impacted by the

1 capture, transportation, and sequestration of the
2 carbon dioxide proposed to be sequestered;

3 (B) current uses of those water sources;

4 (C) potential or certain impacts to those water
5 sources from capture, transportation, and
6 sequestration of the carbon dioxide, including impacts
7 to water quantity, quality, and current uses;

8 (D) the duration of the impacts to water
9 associated with the capture, transportation, and
10 sequestration of the carbon dioxide proposed to be
11 sequestered; and

12 (E) the methods the applicant will use to minimize
13 both water use and impacts to water quality associated
14 with the sequestration of carbon dioxide;

15 (4) include an alternatives analysis that evaluates
16 other reasonable alternatives for achieving the same
17 volume of carbon dioxide emissions reductions as are
18 proposed to be achieved through carbon sequestration,
19 including, but not limited to:

20 (A) if the carbon dioxide was captured at a
21 facility that generates electricity, energy-generation
22 alternatives such as renewable energy, energy storage,
23 or energy efficiency;

24 (B) if the carbon dioxide was captured at a
25 facility that produces fuel for vehicles or equipment,
26 alternatives such as the use of electric vehicles; and

1 (C) if the carbon dioxide was captured at an
2 industrial facility, alternative industrial processes
3 that could reduce the amount of carbon dioxide
4 generated;

5 for each alternative identified under this paragraph
6 (4), the person seeking to sequester carbon dioxide shall
7 complete a GHG inventory analysis of the alternative
8 consistent with subparagraph (B) and a water impacts
9 analysis addressing the factors set out in subparagraph
10 (C); and

11 (5) be developed with public input, including by
12 making a draft version of the analysis available on a
13 public website for not less than 60 days and accepting
14 comments on the proposed analysis for the entirety of that
15 60-day period, together with a public meeting at least 14
16 days after the posting of the draft on the public website
17 that provides a meaningful opportunity for the public to
18 ask questions, have those questions answered, and provide
19 comment on the draft; the final environmental analysis
20 must include responses to public comments, identify all
21 changes to the analysis made in response to those
22 comments, and be made available to the public on a public
23 website.

24 (d) Any person seeking to sequester carbon dioxide in
25 Illinois must, before seeking a carbon sequestration permit in
26 accordance with the rules developed under subsection (h),

1 first conduct an area of review analysis that:

2 (1) identifies any faults, fractures, or cracks,
3 abandoned or operating wells, mine shafts, quarries,
4 seismic activity, or other features of the proposed area
5 of review that could interfere with containment of carbon
6 dioxide, and if any such feature is present; and

7 (2) demonstrates that the feature will not interfere
8 with carbon dioxide containment.

9 (e) No permit for the sequestration of carbon dioxide may
10 be issued unless:

11 (1) the Illinois State Water Survey has reviewed the
12 water impact analysis required under paragraph (3) of
13 subsection (c) and, taking into consideration that
14 analysis, information available to the Illinois State
15 Water Survey concerning water supply and uses, and public
16 comment, concluded that the proposed carbon dioxide
17 sequestration project will not have significant adverse
18 effects on water supply or current or future uses of the
19 water source; and

20 (2) the permit sets out conditions, determined in
21 consultation with the Illinois State Water Supply and
22 taking into consideration public comments, under which the
23 project operator must reduce the volume or rate or water
24 that may be utilized for the sequestration of carbon
25 dioxide, as well as conditions under which the use of
26 water for carbon sequestration must be halted altogether.

1 (f) Any person who applies for or is granted a permit for
2 carbon sequestration under this Section shall post with the
3 Agency a performance bond or other security in accordance with
4 this Act and the rules developed under subsection (h). The
5 only acceptable forms of financial assurance are a trust fund,
6 a surety bond guaranteeing payment, a surety bond guaranteeing
7 performance, or an irrevocable letter of credit.

8 The Agency may enter into contracts and agreements it
9 deems necessary to carry out the purposes of this Section.
10 Neither the State nor any State employee shall be liable for
11 any damages or injuries arising out of or resulting from any
12 action taken under this Section.

13 The Agency may approve or disapprove any performance bond
14 or other security posted under this subsection. Any person
15 whose performance bond or other security is disapproved by the
16 Agency may contest the disapproval as a permit denial appeal
17 under Section 40.

18 (g) Every applicant for a permit for carbon sequestration
19 under subsection (b) of this Section shall first register with
20 the Agency at least 60 days before applying for a permit. The
21 Agency shall make available a registration form within 90 days
22 after the effective date of this Act. The registration form
23 shall require the following information:

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

26 (2) disclosure of all findings of a serious violation

1 or an equivalent violation under federal or State laws,
2 rules, or regulations concerning the development or
3 operation of a carbon dioxide injection well, a carbon
4 dioxide pipeline, or an oil or gas exploration or
5 production site, by the applicant or any parent,
6 subsidiary, or affiliate thereof within the previous 5
7 years; and

8 (3) proof of insurance to cover injuries, damages, or
9 losses related to a release of carbon dioxide in the
10 amount of at least \$250,000,000, from an insurance carrier
11 authorized, licensed, or permitted to do so in this State
12 and that holds at least an A- rating by an American credit
13 rating agency that focuses on the insurance industry, or
14 any comparable rating service.

15 A registrant must notify the Department of any change in
16 the information identified in paragraphs (1), (2), or (3) no
17 later than one month after the change, or sooner upon request
18 of the Agency.

19 If granted a carbon sequestration permit under this
20 Section, the permittee must maintain insurance in accordance
21 with paragraph (3) throughout the period during which carbon
22 dioxide is injected into the sequestration site and at least
23 100 years thereafter.

24 (h) The Board shall adopt rules establishing permit
25 requirements and other standards for carbon sequestration. The
26 Board's rules shall address, but are not limited to, the

1 following issues: applicability; required permit information;
2 minimum criteria for siting; area of review and corrective
3 action; financial responsibility; injection well construction
4 requirements; logging, sampling, and testing requirements
5 before injection well operation; injection well operating
6 requirements; mechanical integrity; testing and monitoring
7 requirements; reporting requirements; injection well plugging;
8 post-injection site care and site closure; emergency and
9 remedial response; conditions for obtaining a variance from
10 injection depth requirements; and security protections for
11 injection wells, monitors, and other associated infrastructure
12 to prevent tampering with sequestration-related equipment.

13 Not later than one year after the effective date of this
14 amendatory Act of the 103rd General Assembly the Agency shall
15 propose, and not later than 2 years after receipt of the
16 Agency's proposal the Board shall adopt, the rules required
17 under this Section. The rules must, at a minimum:

18 (1) be at least as protective and comprehensive as the
19 federal rules, regulations, or amendments thereto adopted
20 by the Administrator of the United States Environmental
21 Protection Agency under the provisions of 40 CFR 146
22 governing Class VI wells;

23 (2) specify the minimum contents of carbon
24 sequestration permit applications, which shall include the
25 environmental impact analyses required under subsection
26 (c), the area of review analysis required under subsection

1 (d), and documentation and analyses sufficient to
2 demonstrate compliance with all applicable rules for
3 carbon sequestration adopted under this Section;

4 (3) specify the frequency at which carbon
5 sequestration permits expire and must be renewed, the
6 circumstances under which a permittee must seek a permit
7 modification, and the circumstances under which the Agency
8 may temporarily or permanently revoke a carbon
9 sequestration permit;

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

12 (5) specify meaningful public participation procedures
13 for the issuance of carbon sequestration permits,
14 including, but not limited to:

15 (A) public notice of the submission of permit
16 applications;

17 (B) posting on a public website of the full permit
18 application, the draft and final permitting actions by
19 the Agency, and the Agency's response to comments;

20 (C) an opportunity for the submission of public
21 comments;

22 (D) an opportunity for a public hearing prior to
23 permit issuance; and

24 (E) a summary and response of the comments
25 prepared by the Agency; when the sequestration is
26 proposed to take place in an area of environmental

1 justice concern, the rules shall specify further
2 opportunities for public participation, including, but
3 not limited to, public meetings, translations of
4 relevant documents into other languages for residents
5 with limited English proficiency, and interpretation
6 services at public meetings and hearings;

7 (6) prescribe the type and amount of the performance
8 bonds or other securities required under subsection (f)
9 and the conditions under which the State is entitled to
10 collect moneys from such performance bonds or other
11 securities;

12 (7) specify a procedure to identify areas of
13 environmental justice concern in relation to sequestration
14 facilities;

15 (8) prohibit carbon dioxide sequestration unless the
16 permit applicant demonstrates that the confining zone in
17 which the applicant proposes to sequester carbon dioxide:

18 (A) is not located in an active seismic zone,
19 fault area, or any other location in which carbon
20 sequestration could pose an undue risk of harm to
21 human health or the environment;

22 (B) does not intersect with an aquifer containing
23 groundwater classified as Class 1, Class 2, or Class 3
24 under 35 Ill. Adm. Code Part 620, Subpart B;

25 (C) does not intersect with any aquifer that is
26 hydraulically connected to aquifers containing

1 groundwater classified as Class 1, Class 2, or Class 3
2 under 35 Ill. Adm. Code Part 620, Subpart B; and

3 (D) does not contain any faults, fractures,
4 abandoned or operating wells, mine shafts, quarries,
5 or other features that could interfere with
6 containment of carbon dioxide;

7 (9) require that monitoring of carbon sequestration
8 facilities be conducted by a third-party contractor;

9 (10) establish minimum qualifications for third-party
10 contractors to conduct monitoring;

11 (11) specify the types of monitors and frequency of
12 monitoring to be performed at carbon sequestration
13 facilities, which, in addition to monitoring required
14 under 40 CFR 146, shall include surface air monitoring,
15 soil gas monitoring, seismicity monitoring, and any other
16 types of monitoring the Board determines are appropriate
17 to protect health and the environment;

18 (12) set the minimum duration of the post-injection
19 site care period at no fewer than 100 years; and

20 (13) establish reporting requirements for carbon
21 sequestration permittees, which, in addition to the
22 reporting required under 40 CFR 146, shall include, but
23 are not limited to, the mass of carbon dioxide transported
24 to sequestration facilities, the facilities from which
25 that carbon dioxide was captured, seismic events of
26 significant magnitude, and malfunctions or downtime of any

1 monitors.

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

3 Sec. 39. Issuance of permits; procedures.

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

1 Agency denies any permit under this Section, the Agency shall
2 transmit to the applicant within the time limitations of this
3 Section specific, detailed statements as to the reasons the
4 permit application was denied. Such statements shall include,
5 but not be limited to, the following:

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

8 (ii) the provision of the regulations, promulgated
9 under this Act, which may be violated if the permit were
10 granted;

11 (iii) the specific type of information, if any, which
12 the Agency deems the applicant did not provide the Agency;
13 and

14 (iv) a statement of specific reasons why the Act and
15 the regulations might not be met if the permit were
16 granted.

17 If there is no final action by the Agency within 90 days
18 after the filing of the application for permit, the applicant
19 may deem the permit issued; except that this time period shall
20 be extended to 180 days when (1) notice and opportunity for
21 public hearing are required by State or federal law or
22 regulation, (2) the application which was filed is for any
23 permit to develop a landfill subject to issuance pursuant to
24 this subsection, or (3) the application that was filed is for a
25 MSWLF unit required to issue public notice under subsection
26 (p) of Section 39. The 90-day and 180-day time periods for the

1 Agency to take final action do not apply to NPDES permit
2 applications under subsection (b) of this Section, to RCRA
3 permit applications under subsection (d) of this Section, to
4 UIC permit applications under subsection (e) of this Section,
5 or to CCR surface impoundment applications under subsection
6 (y) of this Section.

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

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

24 After June 30, 1998, operating permits issued under this
25 Section by the Agency for sources of air pollution that are not
26 subject to Section 39.5 of this Act and are not required to

1 have a federally enforceable State operating permit shall be
2 required to be renewed only upon written request by the Agency
3 consistent with applicable provisions of this Act and its
4 rules. Such operating permits shall expire 180 days after the
5 date of such a request. Before July 1, 1998, the Board shall
6 revise its rules for the existing State air pollution
7 operating permit program consistent with this paragraph and
8 shall adopt rules that require a source to demonstrate that it
9 qualifies for a permit under this paragraph.

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

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

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

25 The Agency may include, among such conditions, effluent
26 limitations and other requirements established under this Act,

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

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

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

17 (c) Except for those facilities owned or operated by
18 sanitary districts organized under the Metropolitan Water
19 Reclamation District Act, no permit for the development or
20 construction of a new pollution control facility may be
21 granted by the Agency unless the applicant submits proof to
22 the Agency that the location of the facility has been approved
23 by the county board of the county if in an unincorporated area,
24 or the governing body of the municipality when in an
25 incorporated area, in which the facility is to be located in
26 accordance with Section 39.2 of this Act. For purposes of this

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

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

23 Beginning August 20, 1993, if the pollution control
24 facility consists of a hazardous or solid waste disposal
25 facility for which the proposed site is located in an
26 unincorporated area of a county with a population of less than

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

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

24 After January 1, 1994, if a solid waste disposal facility,
25 any portion for which an operating permit has been issued by
26 the Agency, has not accepted waste disposal for 5 or more

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

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

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

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

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

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

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

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

24 (4) the site has local zoning approval.

25 (d) The Agency may issue RCRA permits exclusively under
26 this subsection to persons owning or operating a facility for

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

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

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

22 The Agency shall adopt filing requirements and procedures
23 which are necessary and appropriate for the issuance of RCRA
24 permits, and which are consistent with the Act or regulations
25 adopted by the Board, and with the Resource Conservation and
26 Recovery Act of 1976 (P.L. 94-580), as amended, and

1 regulations pursuant thereto.

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

11 (e) The Agency may issue UIC permits exclusively under
12 this subsection to persons owning or operating a facility for
13 the underground injection of contaminants as defined under
14 this Act. However, the Agency shall not issue any permit for
15 underground injection wells for the sequestration of carbon
16 dioxide under Section 22.63.

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

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

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

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

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

25 (2) The Agency shall adopt requirements as necessary
26 to implement public participation procedures, including,

1 but not limited to, public notice, comment, and an
2 opportunity for hearing, which must accompany the
3 processing of applications for PSD permits. The Agency
4 shall briefly describe and respond to all significant
5 comments on the draft permit raised during the public
6 comment period or during any hearing. The Agency may group
7 related comments together and provide one unified response
8 for each issue raised.

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

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

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

1 have been exhausted, the Agency shall file such restrictions
2 of record in the Office of the Recorder of the county in which
3 the hazardous waste disposal site is located.

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

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

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

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

26 (2) conviction in this or another State of any crime

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

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

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

1 contamination at the site, unless such contamination is
2 authorized under any permit issued by the Agency.

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

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

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

25 (m) The Agency may issue permits to persons owning or
26 operating a facility for composting landscape waste. In

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

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

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

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

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

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

1 The Agency shall issue permits for such facilities upon
2 receipt of an application that includes a legal description of
3 the site, a topographic map of the site drawn to the scale of
4 200 feet to the inch or larger, a description of the operation,
5 including the area served, an estimate of the volume of
6 materials to be processed, and documentation that:

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

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

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

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

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

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

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

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

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

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

22 (o) (Blank).

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

1 approval under Section 39.2 of this Act shall publish notice
2 of the application in a newspaper of general circulation in
3 the county in which the MSWLF unit is or is proposed to be
4 located. The notice must be published at least 15 days before
5 submission of the permit application to the Agency. The notice
6 shall state the name and address of the applicant, the
7 location of the MSWLF unit or proposed MSWLF unit, the nature
8 and size of the MSWLF unit or proposed MSWLF unit, the nature
9 of the activity proposed, the probable life of the proposed
10 activity, the date the permit application will be submitted,
11 and a statement that persons may file written comments with
12 the Agency concerning the permit application within 30 days
13 after the filing of the permit application unless the time
14 period to submit comments is extended by the Agency.

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

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

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

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

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

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

26 (2) Within 2 years after July 12, 2011 (the effective

1 date of Public Act 97-95), permit application forms or
2 portions of permit applications that can be completed and
3 saved electronically, and submitted to the Agency
4 electronically with digital signatures.

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

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

24 (B) for those applications where the Agency has
25 not taken action in accordance with the timeframes set
26 forth in this Act, the date the application was

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

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

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

24 (t) Except as otherwise prohibited by federal law or
25 regulation, any person submitting an application for a permit
26 may include with the application suggested permit language for

1 Agency consideration. The Agency is not obligated to use the
2 suggested language or any portion thereof in its permitting
3 decision. If requested by the permit applicant, the Agency
4 shall meet with the applicant to discuss the suggested
5 language.

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

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

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

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

25 (y) The Agency may issue permits exclusively under this
26 subsection to persons owning or operating a CCR surface

1 impoundment subject to Section 22.59.

2 (z) If a mass animal mortality event is declared by the
3 Department of Agriculture in accordance with the Animal
4 Mortality Act:

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

7 (i) obtaining a permit for the construction,
8 installation, or operation of any type of facility or
9 equipment issued in accordance with subsection (a) of
10 this Section;

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

13 (iii) registering the disposal of dead animals as
14 an eligible small source with the Agency in accordance
15 with Section 9.14 of this Act;

16 (2) as applicable, the owner or operator responsible
17 for the disposal of dead animals is required to obtain the
18 following permits:

19 (i) an NPDES permit in accordance with subsection
20 (b) of this Section;

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

23 (iii) a lifetime State operating permit or a
24 federally enforceable State operating permit, in
25 accordance with subsection (a) of this Section; or

26 (iv) a CAAPP permit, in accordance with Section

1 39.5 of this Act.

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

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

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

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

1 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
2 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

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

4 Sec. 40. Appeal of permit denial.

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

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

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

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

23 (b) If the Agency grants a RCRA permit for a hazardous
24 waste disposal site, a third party, other than the permit
25 applicant or Agency, may, within 35 days after the date on
26 which the Agency issued its decision, petition the Board for a

1 hearing to contest the issuance of the permit. Unless the
2 Board determines that such petition is duplicative or
3 frivolous, or that the petitioner is so located as to not be
4 affected by the permitted facility, the Board shall hear the
5 petition in accordance with the terms of subsection (a) of
6 this Section and its procedural rules governing denial
7 appeals, such hearing to be based exclusively on the record
8 before the Agency. The burden of proof shall be on the
9 petitioner. The Agency and the permit applicant shall be named
10 co-respondents.

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

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

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

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

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

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

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

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

1 as to be affected by the permitted facility.

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

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

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

18 (h) If the Agency grants or denies a permit for the capture
19 of carbon dioxide under Section 9.20 or a permit for
20 sequestration of carbon dioxide under Section 22.63,
21 including, but not limited to, the disapproval of financial
22 assurance under subsection (f) of Section 22.63, any person
23 may petition the Board, within 35 days after the date of
24 issuance of the Agency's decision, for a hearing to contest
25 the grant or denial.

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

1 Section 97. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.

1 INDEX
2 Statutes amended in order of appearance

3 New Act

4 30 ILCS 105/5.990 new

5 20 ILCS 3855/1-10

6 20 ILCS 3855/1-80

7 220 ILCS 75/10

8 220 ILCS 75/15

9 220 ILCS 75/20

10 415 ILCS 5/3.121 new

11 415 ILCS 5/3.132 new

12 415 ILCS 5/3.133 new

13 415 ILCS 5/3.134 new

14 415 ILCS 5/3.136 new

15 415 ILCS 5/3.446 new

16 415 ILCS 5/3.447 new

17 415 ILCS 5/9.19 new

18 415 ILCS 5/9.20 new

19 415 ILCS 5/21 from Ch. 111 1/2, par. 1021

20 415 ILCS 5/22.63 new

21 415 ILCS 5/39 from Ch. 111 1/2, par. 1039

22 415 ILCS 5/40 from Ch. 111 1/2, par. 1040