



Sen. Laura Fine

Filed: 3/31/2023

10300SB2421sam001

LRB103 29079 LNS 60291 a

1 AMENDMENT TO SENATE BILL 2421

2 AMENDMENT NO. _____. Amend Senate Bill 2421 by replacing
3 everything after the enacting clause with the following:

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

6 Section 5. Legislative findings and objectives. The
7 General Assembly finds that:

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

12 (2) 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
16 risk of grave harm if there is a release of carbon dioxide.

1 (3) The storage of carbon dioxide in subsurface pore
2 space may have profound impacts upon the surface estate.
3 Subsurface carbon dioxide storage may require easements
4 for pipelines, injection wells, monitoring equipment, and
5 other infrastructure, and may harm crops and topsoil and
6 risk grave harm to landowners, surrounding ecosystems, and
7 water supplies if carbon dioxide is released.

8 (4) To protect landowners, surface ecosystems,
9 groundwater, and nearby residents, it is essential that
10 the State clarify the ownership, liability, and other
11 property rights associated with carbon dioxide
12 transportation and storage before additional carbon
13 transport and storage takes place in the State, as well as
14 provide units of local government and residents with
15 training and resources so they can be prepared if there is
16 a carbon dioxide release.

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

18 "Agency" means the Environmental Protection Agency.

19 "Amalgamation" means the combining or uniting of property
20 rights in adjacent subsurface pore space for the permanent
21 storage of carbon dioxide.

22 "Area of review" has the meaning given to that term in
23 Section 3.121 of the Environmental Protection Act.

24 "Carbon dioxide injection well" means a well that is used
25 to inject carbon dioxide into a reservoir for permanent

1 geologic sequestration.

2 "Carbon dioxide pipeline" or "pipeline" means the in-State
3 portion of a pipeline, including appurtenant facilities,
4 property rights, and easements, that are used to transport
5 carbon dioxide.

6 "Carbon dioxide stream" means carbon dioxide, any
7 incidental associated substances derived from the source
8 materials and process of producing or capturing carbon
9 dioxide, and any substance added to the stream to enable or
10 improve the injection process or the detection of a leak or
11 rupture.

12 "Carbon dioxide sequestration reservoir" means a portion
13 of a sedimentary geologic stratum or formation containing pore
14 space, including, but not limited to, depleted reservoirs and
15 saline formations, that the Agency has determined is suitable
16 for the injection and permanent storage of carbon dioxide.

17 "Department" means the Department of Public Health.

18 "Easement" means an interest in land owned by another
19 person that conveys the right to use or control the land, or an
20 area above or below it, for a specific purpose, including, but
21 not limited to, the storage of carbon dioxide in subsurface
22 cavities.

23 "Fund" means the Carbon Transportation and Sequestration
24 Readiness Fund.

25 "Person" has the meaning given to that term in Section
26 3.315 of the Environmental Protection Act.

1 "Pipeline operator" means a person who owns, leases,
2 operates, controls, or supervises a pipeline that transports
3 carbon dioxide.

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

6 "Pore space owner" means the person who has title to a pore
7 space.

8 "Sequester" has the meaning given to that term in Section
9 1-10 of the Illinois Power Agency Act.

10 "Sequestration" means to sequester or be sequestered.

11 "Sequestration facility" means the carbon dioxide
12 sequestration reservoir, underground equipment, and surface
13 facilities and equipment used or proposed to be used in a
14 geologic storage operation. "Sequestration facility" includes
15 an injection well and equipment used to connect the surface
16 facility and equipment to the carbon dioxide sequestration
17 reservoir and underground equipment. "Sequestration facility"
18 does not include pipelines used to transport carbon dioxide to
19 a sequestration facility.

20 "Sequestration operator" means a person who holds, is
21 applying for, or is required to obtain a carbon sequestration
22 permit under Section 22.63 of the Environmental Protection
23 Act.

24 "Sequestration pore space" means a pore space proposed,
25 authorized, or used for sequestering one or more carbon
26 dioxide streams in accordance with a permit or permit

1 application under Section 22.63 of the Environmental
2 Protection Act.

3 "Surface owner" means a person identified in the records
4 of the recorder of deeds for each county containing some
5 portion of a proposed carbon dioxide sequestration reservoir
6 as an owner of a whole or undivided fee simple interest or
7 other freehold interest in real property in the surface above
8 the sequestration pore space. "Surface owner" does not include
9 an owner of a right-of-way, easement, leasehold, or any other
10 lesser estate.

11 "Transportation" means the physical movement of carbon
12 dioxide by pipeline conducted for any person's use or on any
13 person's account.

14 Section 15. Ownership and conveyance of pore space.

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

17 (b) A conveyance of title to a surface estate conveys
18 title to the pore space in all strata underlying the surface
19 estate.

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

23 (d) A grant of easement for use of pore space shall not
24 confer any right to enter upon or otherwise use the surface of
25 the land unless the grant of easement expressly provides that

1 right.

2 Section 20. Compulsory amalgamation. Notwithstanding any
3 other provision of law, a sequestration operator may not
4 exercise any authority to take or acquire any easement or
5 title to any pore space or any portion of an area of review
6 under the Eminent Domain Act for amalgamation. A sequestration
7 operator must obtain, for the entirety of the area of review
8 the person seeks to use for carbon sequestration, either:

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

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

14 Section 25. Ownership of carbon dioxide; liability.

15 (a) A sequestration operator is solely liable for any and
16 all damage caused by carbon dioxide within the sequestration
17 operator's sequestration facility for injection or
18 sequestration or that is otherwise under the sequestration
19 operator's control, including, but not limited to, damage
20 caused by carbon dioxide released from the sequestration
21 facility, regardless of who holds title to the carbon dioxide,
22 the pore space, or the surface estate. A pipeline operator is
23 liable for any and all damage caused by carbon dioxide during
24 transportation, including, but not limited to, damage caused

1 by carbon dioxide released from the pipeline. Liability for
2 damage caused by carbon dioxide during transportation may be
3 joint and several with: (i) the entity that owns title to the
4 carbon dioxide and pipeline owner if either entity is
5 different from the operator; or (ii) the sequestration
6 operator if damage occurs at the point where carbon dioxide
7 changes control.

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

12 (c) Title to carbon dioxide sequestered in this State
13 shall not be vested in the owner of the sequestration pore
14 space. Sequestered carbon dioxide is a separate property
15 independent of the sequestration pore space.

16 Section 30. Carbon transportation and sequestration
17 emergency response fee. In addition to any permit fee required
18 under the Environmental Protection Act, all sequestration
19 operators and pipeline operators who transport or sequester
20 carbon dioxide in this State must pay a fee each year to the
21 Illinois Emergency Management Agency. The fee shall be
22 deposited into the Carbon Transportation and Sequestration
23 Readiness Fund. The fee amount shall be determined by the
24 Illinois Emergency Management Agency through rulemaking as a
25 set amount (i) per mile of approved pipeline for each carbon

1 dioxide pipeline and for each approved carbon sequestration
2 project, (ii) per square mile of area of review, and (iii) per
3 ton of carbon dioxide sequestered. The fee shall be adjusted
4 annually for inflation and shall be in an amount determined by
5 the Illinois Emergency Management Agency as being more than
6 adequate to fund emergency preparedness and response costs for
7 units of local government through which a carbon dioxide
8 pipeline passes or in which carbon sequestration takes place.

9 Section 35. Carbon Transportation and Sequestration
10 Readiness Fund.

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

13 (b) The Fund shall consist of all moneys from fees
14 collected under Section 30, all interest earned on moneys in
15 the Fund, and any additional moneys allocated or appropriated
16 to the Fund by the General Assembly.

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

18 (1) cover administrative costs of the Illinois
19 Emergency Management Agency for administration of grants
20 awarded under this Section and costs to the Illinois
21 Emergency Management Agency and Department to cover costs
22 of preparing the training materials and offering the
23 training sessions required under Section 40;

24 (2) provide funding to units of local government
25 through which a carbon dioxide pipeline passes or in which

1 carbon sequestration has been proposed or is taking place
2 to enhance emergency preparedness and emergency response
3 capabilities if a carbon dioxide release occurs; allowable
4 expenditures of moneys provided under this paragraph are:

5 (A) preparing emergency response plans for carbon
6 dioxide release;

7 (B) purchasing electric emergency response
8 vehicles;

9 (C) developing or maintaining a text message or
10 other emergency communication alert system;

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

13 (E) equipment for first responders, local
14 residents, and medical facilities that assist in the
15 preparation for, detection of, or response to the
16 release of carbon dioxide or other toxic or hazardous
17 materials; and

18 (F) training and training materials for first
19 responders, local residents, businesses, and other
20 local entities to prepare for and respond to the
21 release of carbon dioxide or other toxic or hazardous
22 materials;

23 (3) fund research in technologies, other than those
24 for carbon capture and sequestration, that reduce the
25 potential for carbon dioxide pollution from industries
26 that are major sources of carbon dioxide, including, but

1 not limited to, steel and cement production; or

2 (4) fund research to better understand the scope of
3 potential carbon dioxide releases and methods to limit the
4 likelihood of a carbon dioxide release from a pipeline or
5 sequestration facility, including, but not limited to,
6 computer modeling to simulate carbon dioxide leaks from
7 pipelines of varying diameters and lengths.

8 All research funded under paragraphs (3) and (4) must be
9 included in a report published by the Illinois Emergency
10 Management Agency on its website. For research funded under
11 paragraph (4), the report shall contain recommendations for
12 safety measures to protect communities from carbon dioxide
13 releases, such as hazard zones, setbacks, additional
14 monitoring, or other measures.

15 (d) The Fund shall be administered by the Illinois
16 Emergency Management Agency. The Illinois Emergency Management
17 Agency shall issue annual requests for proposals to receive
18 Fund moneys and shall award grants to qualified applicants who
19 meet the criteria under subsection (c) and any other criteria
20 the Illinois Emergency Management Agency deems necessary for
21 the Fund to serve its intended purpose. The Illinois Emergency
22 Management Agency shall not limit the number of proposals an
23 applicant may submit under this subsection.

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

1 Section 40. Training for carbon dioxide emergencies.

2 (a) Within one year after the effective date of this Act,
3 the Agency and the Department shall jointly prepare training
4 materials for local emergency responders and medical personnel
5 regarding what to do if carbon dioxide is released from a
6 pipeline or a sequestration facility, including, but not
7 limited to:

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

9 (2) communications protocols to quickly share
10 information about a carbon dioxide release;

11 (3) protocols for locating residents and others in the
12 affected area and, when necessary, transporting residents
13 and others in the affected area out of the area to health
14 care facilities; and

15 (4) symptoms of and treatment for exposure to a carbon
16 dioxide release.

17 (b) Each year, the Department and the Agency shall offer
18 at least 3 training sessions on emergency response protocols
19 during carbon dioxide releases for emergency responders and
20 medical personnel in any county in which carbon dioxide is
21 proposed to be, or is, transported or sequestered. Unless a
22 health emergency necessitates virtual training only, the
23 training sessions shall be in-person with the option to join
24 remotely and shall be recorded. The recordings shall be
25 maintained on the Agency's and Department's publicly available
26 websites.

1 (c) Within one year after the effective date of this Act,
2 the Agency and the Department shall jointly prepare training
3 materials for residents, businesses, and other persons and
4 entities located within 2 miles of a carbon dioxide pipeline
5 or above the area of review regarding a carbon dioxide
6 release. The training materials shall include, but are not
7 limited to:

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

9 (2) what to do in the event of a carbon dioxide
10 release;

11 (3) symptoms of exposure to a carbon dioxide release;

12 and

13 (4) recommendations for items residents and other
14 entities may want to purchase or request, including, but
15 not limited to, carbon dioxide monitors and air supply
16 respirators.

17 (d) Each year, the Agency and the Department, in
18 cooperation with local emergency response personnel, shall
19 offer at least 2 public training sessions for residents and
20 local businesses in every county in which carbon dioxide is
21 proposed to be, or is, transported or sequestered. Unless a
22 health emergency necessitates virtual training only, the
23 training sessions shall be in-person with the option to join
24 remotely and shall be recorded. The recordings shall be
25 maintained on the Agency's and Department's publicly available
26 websites.

1 (e) Every 5 years, the Agency and the Department shall
2 review and, if appropriate, revise the training materials
3 developed under this Section to incorporate new best
4 practices, technologies, developments, or information that (i)
5 improves emergency response and treatment for carbon dioxide
6 releases and (ii) may assist local residents and businesses to
7 be better prepared in the event of a carbon dioxide release.

8 Section 45. The State Finance Act is amended by adding
9 Section 5.990 as follows:

10 (30 ILCS 105/5.990 new)

11 Sec. 5.990. The Carbon Transportation and Sequestration
12 Readiness Fund.

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

15 (20 ILCS 3855/1-10)

16 Sec. 1-10. Definitions.

17 "Agency" means the Illinois Power Agency.

18 "Agency loan agreement" means any agreement pursuant to
19 which the Illinois Finance Authority agrees to loan the
20 proceeds of revenue bonds issued with respect to a project to
21 the Agency upon terms providing for loan repayment
22 installments at least sufficient to pay when due all principal

1 of, interest and premium, if any, on those revenue bonds, and
2 providing for maintenance, insurance, and other matters in
3 respect of the project.

4 "Authority" means the Illinois Finance Authority.

5 "Brownfield site photovoltaic project" means photovoltaics
6 that are either:

7 (1) interconnected to an electric utility as defined
8 in this Section, a municipal utility as defined in this
9 Section, a public utility as defined in Section 3-105 of
10 the Public Utilities Act, or an electric cooperative as
11 defined in Section 3-119 of the Public Utilities Act and
12 located at a site that is regulated by any of the following
13 entities under the following programs:

14 (A) the United States Environmental Protection
15 Agency under the federal Comprehensive Environmental
16 Response, Compensation, and Liability Act of 1980, as
17 amended;

18 (B) the United States Environmental Protection
19 Agency under the Corrective Action Program of the
20 federal Resource Conservation and Recovery Act, as
21 amended;

22 (C) the Illinois Environmental Protection Agency
23 under the Illinois Site Remediation Program; or

24 (D) the Illinois Environmental Protection Agency
25 under the Illinois Solid Waste Program; or

26 (2) located at the site of a coal mine that has

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

15 "Clean coal facility" means an electric generating
16 facility that uses primarily coal as a feedstock and that
17 captures and sequesters carbon dioxide emissions at the
18 following levels: at least 50% of the total carbon dioxide
19 emissions that the facility would otherwise emit if, at the
20 time construction commences, the facility is scheduled to
21 commence operation before 2016, at least 70% of the total
22 carbon dioxide emissions that the facility would otherwise
23 emit if, at the time construction commences, the facility is
24 scheduled to commence operation during 2016 or 2017, and at
25 least 90% of the total carbon dioxide emissions that the
26 facility would otherwise emit if, at the time construction

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

14 "Clean coal SNG brownfield facility" means a facility that
15 (1) has commenced construction by July 1, 2015 on an urban
16 brownfield site in a municipality with at least 1,000,000
17 residents; (2) uses a gasification process to produce
18 substitute natural gas; (3) uses coal as at least 50% of the
19 total feedstock over the term of any sourcing agreement with a
20 utility and the remainder of the feedstock may be either
21 petroleum coke or coal, with all such coal having a high
22 bituminous rank and greater than 1.7 pounds of sulfur per
23 million Btu content unless the facility reasonably determines
24 that it is necessary to use additional petroleum coke to
25 deliver additional consumer savings, in which case the
26 facility shall use coal for at least 35% of the total feedstock

1 over the term of any sourcing agreement; and (4) captures and
2 sequesters at least 85% of the total carbon dioxide emissions
3 that the facility would otherwise emit.

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

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

19 "Commission" means the Illinois Commerce Commission.

20 "Community renewable generation project" means an electric
21 generating facility that:

22 (1) is powered by wind, solar thermal energy,
23 photovoltaic cells or panels, biodiesel, crops and
24 untreated and unadulterated organic waste biomass, and
25 hydropower that does not involve new construction or
26 significant expansion of hydropower dams;

1 (2) is interconnected at the distribution system level
2 of an electric utility as defined in this Section, a
3 municipal utility as defined in this Section that owns or
4 operates electric distribution facilities, a public
5 utility as defined in Section 3-105 of the Public
6 Utilities Act, or an electric cooperative, as defined in
7 Section 3-119 of the Public Utilities Act;

8 (3) credits the value of electricity generated by the
9 facility to the subscribers of the facility; and

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

12 "Costs incurred in connection with the development and
13 construction of a facility" means:

14 (1) the cost of acquisition of all real property,
15 fixtures, and improvements in connection therewith and
16 equipment, personal property, and other property, rights,
17 and easements acquired that are deemed necessary for the
18 operation and maintenance of the facility;

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

21 (3) all origination, commitment, utilization,
22 facility, placement, underwriting, syndication, credit
23 enhancement, and rating agency fees;

24 (4) engineering, design, procurement, consulting,
25 legal, accounting, title insurance, survey, appraisal,
26 escrow, trustee, collateral agency, interest rate hedging,

1 interest rate swap, capitalized interest, contingency, as
2 required by lenders, and other financing costs, and other
3 expenses for professional services; and

4 (5) the costs of plans, specifications, site study and
5 investigation, installation, surveys, other Agency costs
6 and estimates of costs, and other expenses necessary or
7 incidental to determining the feasibility of any project,
8 together with such other expenses as may be necessary or
9 incidental to the financing, insuring, acquisition, and
10 construction of a specific project and starting up,
11 commissioning, and placing that project in operation.

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

14 "Delivery year" means the consecutive 12-month period
15 beginning June 1 of a given year and ending May 31 of the
16 following year.

17 "Department" means the Department of Commerce and Economic
18 Opportunity.

19 "Director" means the Director of the Illinois Power
20 Agency.

21 "Demand-response" means measures that decrease peak
22 electricity demand or shift demand from peak to off-peak
23 periods.

24 "Distributed renewable energy generation device" means a
25 device that is:

26 (1) powered by wind, solar thermal energy,

1 photovoltaic cells or panels, biodiesel, crops and
2 untreated and unadulterated organic waste biomass, tree
3 waste, and hydropower that does not involve new
4 construction or significant expansion of hydropower dams,
5 waste heat to power systems, or qualified combined heat
6 and power systems;

7 (2) interconnected at the distribution system level of
8 either an electric utility as defined in this Section, a
9 municipal utility as defined in this Section that owns or
10 operates electric distribution facilities, or a rural
11 electric cooperative as defined in Section 3-119 of the
12 Public Utilities Act;

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

16 (4) (blank).

17 "Energy efficiency" means measures that reduce the amount
18 of electricity or natural gas consumed in order to achieve a
19 given end use. "Energy efficiency" includes voltage
20 optimization measures that optimize the voltage at points on
21 the electric distribution voltage system and thereby reduce
22 electricity consumption by electric customers' end use
23 devices. "Energy efficiency" also includes measures that
24 reduce the total Btus of electricity, natural gas, and other
25 fuels needed to meet the end use or uses.

26 "Electric utility" has the same definition as found in

1 Section 16-102 of the Public Utilities Act.

2 "Equity investment eligible community" or "eligible
3 community" are synonymous and mean the geographic areas
4 throughout Illinois which would most benefit from equitable
5 investments by the State designed to combat discrimination.
6 Specifically, the eligible communities shall be defined as the
7 following areas:

8 (1) R3 Areas as established pursuant to Section 10-40
9 of the Cannabis Regulation and Tax Act, where residents
10 have historically been excluded from economic
11 opportunities, including opportunities in the energy
12 sector; and

13 (2) environmental ~~Environmental~~ justice communities,
14 as defined by the Illinois Power Agency pursuant to the
15 Illinois Power Agency Act, where residents have
16 historically been subject to disproportionate burdens of
17 pollution, including pollution from the energy sector.

18 "Equity eligible persons" or "eligible persons" means
19 persons who would most benefit from equitable investments by
20 the State designed to combat discrimination, specifically:

21 (1) persons who graduate from or are current or former
22 participants in the Clean Jobs Workforce Network Program,
23 the Clean Energy Contractor Incubator Program, the
24 Illinois Climate Works Preapprenticeship Program,
25 Returning Residents Clean Jobs Training Program, or the
26 Clean Energy Primes Contractor Accelerator Program, and

1 the solar training pipeline and multi-cultural jobs
2 program created in paragraphs (a) (1) and (a) (3) of Section
3 16-108.12 ~~16-108.21~~ of the Public Utilities Act;

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

6 (3) persons who were formerly incarcerated;

7 (4) persons whose primary residence is in an equity
8 investment eligible community.

9 "Equity eligible contractor" means a business that is
10 majority-owned by eligible persons, or a nonprofit or
11 cooperative that is majority-governed by eligible persons, or
12 is a natural person that is an eligible person offering
13 personal services as an independent contractor.

14 "Facility" means an electric generating unit or a
15 co-generating unit that produces electricity along with
16 related equipment necessary to connect the facility to an
17 electric transmission or distribution system.

18 "General contractor ~~Contractor~~" means the entity or
19 organization with main responsibility for the building of a
20 construction project and who is the party signing the prime
21 construction contract for the project.

22 "Governmental aggregator" means one or more units of local
23 government that individually or collectively procure
24 electricity to serve residential retail electrical loads
25 located within its or their jurisdiction.

26 "High voltage direct current converter station" means the

1 collection of equipment that converts direct current energy
2 from a high voltage direct current transmission line into
3 alternating current using Voltage Source Conversion technology
4 and that is interconnected with transmission or distribution
5 assets located in Illinois.

6 "High voltage direct current renewable energy credit"
7 means a renewable energy credit associated with a renewable
8 energy resource where the renewable energy resource has
9 entered into a contract to transmit the energy associated with
10 such renewable energy credit over high voltage direct current
11 transmission facilities.

12 "High voltage direct current transmission facilities"
13 means the collection of installed equipment that converts
14 alternating current energy in one location to direct current
15 and transmits that direct current energy to a high voltage
16 direct current converter station using Voltage Source
17 Conversion technology. "High voltage direct current
18 transmission facilities" includes the high voltage direct
19 current converter station itself and associated high voltage
20 direct current transmission lines. Notwithstanding the
21 preceding, after September 15, 2021 (the effective date of
22 Public Act 102-662) ~~this amendatory Act of the 102nd General~~
23 ~~Assembly~~, an otherwise qualifying collection of equipment does
24 not qualify as high voltage direct current transmission
25 facilities unless its developer entered into a project labor
26 agreement, is capable of transmitting electricity at 525kv

1 with an Illinois converter station located and interconnected
2 in the region of the PJM Interconnection, LLC, and the system
3 does not operate as a public utility, as that term is defined
4 in Section 3-105 of the Public Utilities Act.

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

8 "Indexed renewable energy credit" means a tradable credit
9 that represents the environmental attributes of one megawatt
10 hour of energy produced from a renewable energy resource, the
11 price of which shall be calculated by subtracting the strike
12 price offered by a new utility-scale wind project or a new
13 utility-scale photovoltaic project from the index price in a
14 given settlement period.

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

18 "Local government" means a unit of local government as
19 defined in Section 1 of Article VII of the Illinois
20 Constitution.

21 "Municipality" means a city, village, or incorporated
22 town.

23 "Municipal utility" means a public utility owned and
24 operated by any subdivision or municipal corporation of this
25 State.

26 "Nameplate capacity" means the aggregate inverter

1 nameplate capacity in kilowatts AC.

2 "Person" means any natural person, firm, partnership,
3 corporation, either domestic or foreign, company, association,
4 limited liability company, joint stock company, or association
5 and includes any trustee, receiver, assignee, or personal
6 representative thereof.

7 "Project" means the planning, bidding, and construction of
8 a facility.

9 "Project labor agreement" means a pre-hire collective
10 bargaining agreement that covers all terms and conditions of
11 employment on a specific construction project and must include
12 the following:

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

15 (2) provisions establishing the benefits and other
16 compensation for each class of labor organization
17 employee;

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

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

23 (5) provisions for minorities and women, as defined
24 under the Business Enterprise for Minorities, Women, and
25 Persons with Disabilities Act, setting forth goals for
26 apprenticeship hours to be performed by minorities and

1 women and setting forth goals for total hours to be
2 performed by underrepresented minorities and women.

3 A labor organization and the general contractor building
4 the project shall have the authority to include other terms
5 and conditions as they deem necessary.

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

8 "Qualified combined heat and power systems" means systems
9 that, either simultaneously or sequentially, produce
10 electricity and useful thermal energy from a single fuel
11 source. Such systems are eligible for "renewable energy
12 credits" in an amount equal to its total energy output where a
13 renewable fuel is consumed or in an amount equal to the net
14 reduction in nonrenewable fuel consumed on a total energy
15 output basis.

16 "Real property" means any interest in land together with
17 all structures, fixtures, and improvements thereon, including
18 lands under water and riparian rights, any easements,
19 covenants, licenses, leases, rights-of-way, uses, and other
20 interests, together with any liens, judgments, mortgages, or
21 other claims or security interests related to real property.

22 "Renewable energy credit" means a tradable credit that
23 represents the environmental attributes of one megawatt hour
24 of energy produced from a renewable energy resource.

25 "Renewable energy resources" includes energy and its
26 associated renewable energy credit or renewable energy credits

1 from wind, solar thermal energy, photovoltaic cells and
2 panels, biodiesel, anaerobic digestion, crops and untreated
3 and unadulterated organic waste biomass, and hydropower that
4 does not involve new construction or significant expansion of
5 hydropower dams, waste heat to power systems, or qualified
6 combined heat and power systems. For purposes of this Act,
7 landfill gas produced in the State is considered a renewable
8 energy resource. "Renewable energy resources" does not include
9 the incineration or burning of tires, garbage, general
10 household, institutional, and commercial waste, industrial
11 lunchroom or office waste, landscape waste, railroad
12 crossties, utility poles, or construction or demolition
13 debris, other than untreated and unadulterated waste wood.
14 "Renewable energy resources" also includes high voltage direct
15 current renewable energy credits and the associated energy
16 converted to alternating current by a high voltage direct
17 current converter station to the extent that: (1) the
18 generator of such renewable energy resource contracted with a
19 third party to transmit the energy over the high voltage
20 direct current transmission facilities, and (2) the
21 third-party contracting for delivery of renewable energy
22 resources over the high voltage direct current transmission
23 facilities have ownership rights over the unretired associated
24 high voltage direct current renewable energy credit.

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

1 "Revenue bond" means any bond, note, or other evidence of
2 indebtedness issued by the Authority, the principal and
3 interest of which is payable solely from revenues or income
4 derived from any project or activity of the Agency.

5 "Sequester" means permanent storage of carbon dioxide by
6 injecting it into a saline aquifer, a depleted ~~gas~~ reservoir,
7 or other pore space ~~or an oil reservoir, directly or through an~~
8 ~~enhanced oil recovery process that may involve intermediate~~
9 ~~storage, regardless of whether these activities are conducted~~
10 ~~by a clean coal facility, a clean coal SNG facility, a clean~~
11 ~~coal SNG brownfield facility, or a party with which a clean~~
12 ~~coal facility, clean coal SNG facility, or clean coal SNG~~
13 ~~brownfield facility has contracted for such purposes.~~

14 "Service area" has the same definition as found in Section
15 16-102 of the Public Utilities Act.

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

19 "Sourcing agreement" means (i) in the case of an electric
20 utility, an agreement between the owner of a clean coal
21 facility and such electric utility, which agreement shall have
22 terms and conditions meeting the requirements of paragraph (3)
23 of subsection (d) of Section 1-75, (ii) in the case of an
24 alternative retail electric supplier, an agreement between the
25 owner of a clean coal facility and such alternative retail
26 electric supplier, which agreement shall have terms and

1 conditions meeting the requirements of Section 16-115(d) (5) of
2 the Public Utilities Act, and (iii) in case of a gas utility,
3 an agreement between the owner of a clean coal SNG brownfield
4 facility and the gas utility, which agreement shall have the
5 terms and conditions meeting the requirements of subsection
6 (h-1) of Section 9-220 of the Public Utilities Act.

7 "Strike price" means a contract price for energy and
8 renewable energy credits from a new utility-scale wind project
9 or a new utility-scale photovoltaic project.

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

20 "Subscription" means an interest in a community renewable
21 generation project expressed in kilowatts, which is sized
22 primarily to offset part or all of the subscriber's
23 electricity usage.

24 "Substitute natural gas" or "SNG" means a gas manufactured
25 by gasification of hydrocarbon feedstock, which is
26 substantially interchangeable in use and distribution with

1 conventional natural gas.

2 "Total resource cost test" or "TRC test" means a standard
3 that is met if, for an investment in energy efficiency or
4 demand-response measures, the benefit-cost ratio is greater
5 than one. The benefit-cost ratio is the ratio of the net
6 present value of the total benefits of the program to the net
7 present value of the total costs as calculated over the
8 lifetime of the measures. A total resource cost test compares
9 the sum of avoided electric utility costs, representing the
10 benefits that accrue to the system and the participant in the
11 delivery of those efficiency measures and including avoided
12 costs associated with reduced use of natural gas or other
13 fuels, avoided costs associated with reduced water
14 consumption, and avoided costs associated with reduced
15 operation and maintenance costs, as well as other quantifiable
16 societal benefits, to the sum of all incremental costs of
17 end-use measures that are implemented due to the program
18 (including both utility and participant contributions), plus
19 costs to administer, deliver, and evaluate each demand-side
20 program, to quantify the net savings obtained by substituting
21 the demand-side program for supply resources. In calculating
22 avoided costs of power and energy that an electric utility
23 would otherwise have had to acquire, reasonable estimates
24 shall be included of financial costs likely to be imposed by
25 future regulations and legislation on emissions of greenhouse
26 gases. In discounting future societal costs and benefits for

1 the purpose of calculating net present values, a societal
2 discount rate based on actual, long-term Treasury bond yields
3 should be used. Notwithstanding anything to the contrary, the
4 TRC test shall not include or take into account a calculation
5 of market price suppression effects or demand reduction
6 induced price effects.

7 "Utility-scale solar project" means an electric generating
8 facility that:

9 (1) generates electricity using photovoltaic cells;
10 and

11 (2) has a nameplate capacity that is greater than
12 5,000 kilowatts.

13 "Utility-scale wind project" means an electric generating
14 facility that:

15 (1) generates electricity using wind; and

16 (2) has a nameplate capacity that is greater than
17 5,000 kilowatts.

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

21 "Zero emission credit" means a tradable credit that
22 represents the environmental attributes of one megawatt hour
23 of energy produced from a zero emission facility.

24 "Zero emission facility" means a facility that: (1) is
25 fueled by nuclear power; and (2) is interconnected with PJM
26 Interconnection, LLC or the Midcontinent Independent System

1 Operator, Inc., or their successors.

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

3 (20 ILCS 3855/1-80)

4 Sec. 1-80. Resource Development Bureau. Upon its
5 establishment by the Agency, the Resource Development Bureau
6 has the following duties and responsibilities:

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

10 (i) fees assessed by the Agency on municipal
11 electric systems, governmental aggregators, unit or
12 units of local government, or rural electric
13 cooperatives requesting the feasibility study; or

14 (ii) an appropriation from the General Assembly.

15 (b) If the Agency undertakes the construction of a
16 facility, moneys generated from the sale of revenue bonds
17 by the Authority for the facility shall be used to
18 reimburse the source of the money used for the facility's
19 feasibility study.

20 (c) The Agency may develop, finance, construct, or
21 operate electric generation and co-generation facilities
22 that use ~~indigenous coal or~~ renewable resources, ~~or both,~~
23 financed with bonds issued by the Authority on behalf of
24 the Agency. ~~Any such facility that uses coal must be a~~
25 ~~clean coal facility and must be constructed in a location~~

1 ~~where the geology is suitable for carbon sequestration.~~
2 ~~The Agency may also develop, finance, construct, or~~
3 ~~operate a carbon sequestration facility.~~

4 (1) The Agency may enter into contractual
5 arrangements with private and public entities,
6 including but not limited to municipal electric
7 systems, governmental aggregators, and rural electric
8 cooperatives, to plan, site, construct, improve,
9 rehabilitate, and operate those electric generation
10 and co-generation facilities. No contract shall be
11 entered into by the Agency that would jeopardize the
12 tax-exempt status of any bond issued in connection
13 with a project for which the Agency entered into the
14 contract.

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

22 (3) (Blank). ~~The first facility that the Agency~~
23 ~~develops, finances, or constructs shall be a facility~~
24 ~~that uses coal produced in Illinois. The Agency may,~~
25 ~~however, also develop, finance, or construct renewable~~
26 ~~energy facilities after work on the first facility has~~

1 ~~commenced.~~

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

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

6 (d) Use of electricity generated by the Agency's
7 facilities. The Agency may supply electricity produced by
8 the Agency's facilities to municipal electric systems,
9 governmental aggregators, or rural electric cooperatives
10 in Illinois. The electricity shall be supplied at cost.

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

14 (2) The contracts shall also provide that,
15 notwithstanding any provision in the Public Utilities
16 Act, entities supplied with power and energy from an
17 Agency facility shall supply the power and energy to
18 retail customers at the same price paid to purchase
19 power and energy from the Agency.

20 (e) Electric utilities shall not be required to purchase
21 electricity directly or indirectly from facilities developed
22 or sponsored by the Agency.

23 (f) The Agency may sell excess capacity and excess energy
24 into the wholesale electric market at prevailing market rates;
25 provided, however, the Agency may not sell excess capacity or
26 excess energy through the procurement process described in

1 Section 16-111.5 of the Public Utilities Act.

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

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

7 Section 55. The Carbon Dioxide Transportation and
8 Sequestration Act is amended by changing Sections 10, 15, and
9 20 as follows:

10 (220 ILCS 75/10)

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

12 "Carbon dioxide pipeline" or "pipeline" has the meaning
13 given to those terms in Section 10 of the Carbon Dioxide
14 Transport and Storage Protections Act ~~means the in state~~
15 ~~portion of a pipeline, including appurtenant facilities,~~
16 ~~property rights, and easements, that are used exclusively for~~
17 ~~the purpose of transporting carbon dioxide to a point of sale,~~
18 ~~storage, enhanced oil recovery, or other carbon management~~
19 ~~application.~~

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

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

24 "Commission" means the Illinois Commerce Commission.

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

3 "Transportation" has the meaning given to that term in
4 Section 10 of the Carbon Dioxide Transport and Storage
5 Protections Act ~~means the physical movement of carbon dioxide~~
6 ~~by pipeline conducted for a person's own use or account or the~~
7 ~~use or account of another person or persons.~~

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

9 (220 ILCS 75/15)

10 Sec. 15. Scope. This Act applies to the application
11 process for the issuance of a certificate of authority by an
12 owner or operator of a pipeline designed, constructed, and
13 operated to transport and to sequester carbon dioxide ~~produced~~
14 ~~by a clean coal facility, by a clean coal SNG facility, or by~~
15 ~~any other source that will result in the reduction of carbon~~
16 ~~dioxide emissions from that source.~~

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

18 (220 ILCS 75/20)

19 Sec. 20. Application.

20 (a) No person or entity may construct, operate, or repair
21 a carbon dioxide pipeline unless the person or entity
22 possesses a certificate of authority.

23 (a-5) Before filing an application for a certificate of
24 authority with the Commission, a person or entity seeking the

1 certificate must:

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

5 (A) present a map of the proposed pipeline route
6 under consideration;

7 (B) provide, at a minimum, information about the
8 diameter of the pipeline it intends to propose, the
9 contents, flow rate, pressure, and temperature of the
10 pipeline, and the ancillary equipment associated with
11 the pipeline;

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

14 (D) be prepared to answer questions from the
15 public concerning the pipeline;

16 (2) consult with the boards of all counties and, if
17 the proposed pipeline would pass through any
18 municipalities, all municipal governments through which
19 the pipeline would pass, on:

20 (A) zoning;

21 (B) emergency response planning;

22 (C) road crossings, road use, road repair, and
23 road bonding;

24 (D) right-of-way agreements for county and
25 municipal land; and

26 (E) pipeline abandonment;

1 (3) during at least one public meeting of the county
2 boards or municipal bodies with whom the consultation
3 is taking place, provide a presentation on each
4 subject of the consultation and seek public input on
5 the information presented; and

6 (4) compile an accurate, verified list of all occupied
7 residences, businesses, schools, day cares, and health
8 care facilities located within 1.5 miles of the proposed
9 pipeline route.

10 The person or entity must submit the list compiled under
11 paragraph (4) to the county and municipal governments of any
12 county and municipality through which the proposed pipeline is
13 projected to pass before filing the person or entity's
14 application under this Section.

15 (a-10) The Commission shall hold at least one public
16 meeting in each county in which the proposed pipeline would be
17 located, at which the Commission shall accept public comment
18 on the application and proposed pipeline. Such meetings must
19 be held no later than 30 days following the hearing specified
20 in subsection (c).

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

25 (1) the application was properly filed;

26 (2) the applicant is fit, willing, and able to

1 construct and operate the pipeline in compliance with this
2 Act and with Commission regulations and orders of the
3 Commission or any applicable federal agencies;

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

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

13 (5) the applicant has filed with the U.S. Army Corps
14 of Engineers all applications for permits required by that
15 agency in advance of constructing a carbon dioxide
16 pipeline;

17 (6) the applicant has entered into an agreement with
18 the Illinois Department of Agriculture that governs the
19 mitigation of agricultural impacts associated with the
20 construction of the proposed pipeline;

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

24 (7.5) the applicant has demonstrated that its proposed
25 pipeline route would satisfy the setback mandates
26 established in Section 9.19 of the Environmental

1 Protection Act or that the applicant has obtained an
2 approved variance or adjusted standard from those setback
3 requirements from the Pollution Control Board;

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

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

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

22 (7.25) the applicant has provided proof of insurance
23 to cover injuries, damages, or losses related to a release
24 of carbon dioxide from the pipeline in the amount of at
25 least \$250,000,000, from an insurance carrier authorized,
26 licensed, or permitted to do so in this State and that

1 holds at least an A- rating by an American credit rating
2 agency that focuses on the insurance industry, and has
3 posted with the Commission a performance bond or other
4 financial assurance sufficient to cover the cost of
5 emergency response and remediation for any pipeline leak
6 or failure in the form of a trust fund, a surety bond
7 guaranteeing payment, a surety bond guaranteeing
8 performance, or an irrevocable letter of credit consistent
9 with rules adopted by the Commission; and

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

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

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

26 (C) any evidence presented by the Department of

1 Commerce and Economic Opportunity regarding the
2 current and future local, State-wide, or regional
3 economic effect, direct or indirect, of the proposed
4 pipeline or facility including, but not limited to,
5 ability of the State to attract economic growth, meet
6 future energy requirements, and ensure compliance with
7 environmental requirements and goals;

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

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

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

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

1 of general circulation in each county where the proposed
2 pipeline is located.

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

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

1 the Commission at least 14 days in advance of beginning
2 construction on any tract within the project route width and
3 also provide the Commission with at least 14 days' notice
4 before filing a complaint for eminent domain in the circuit
5 court with regard to any tract within the project route width.

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

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

24 (h) Within 6 months after the Commission's entry of an
25 order approving either a specific route or a project route
26 width under this Section, the owner or operator of the carbon

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

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

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

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

23 (220 ILCS 75/5 rep.)

24 Section 60. The Carbon Dioxide Transportation and
25 Sequestration Act is amended by repealing Section 5.

1 Section 65. The Environmental Protection Act is amended by
2 changing Sections 21, 39, and 40 and by adding Sections 3.121,
3 3.132, 3.133, 3.134, 3.136, 3.446, 3.447, 9.19, 9.20, and
4 22.63 as follows:

5 (415 ILCS 5/3.121 new)

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

17 (415 ILCS 5/3.132 new)

18 Sec. 3.132. Carbon dioxide capture project. "Carbon
19 dioxide capture project" means a project that uses a process
20 to separate carbon dioxide from industrial or energy-related
21 sources, other than oil or gas production from a well, and
22 produces a concentrated fluid of carbon dioxide. "Carbon
23 dioxide capture project" includes carbon dioxide captured as

1 part of a research and development project or a project funded
2 by research and development funds, unless the operator
3 demonstrates to the satisfaction of the Agency that the
4 project meets criteria for exclusion as a research and
5 development project under rules adopted by the Board under
6 paragraph (9) of subsection (g) of Section 9.20.

7 (415 ILCS 5/3.133 new)

8 Sec. 3.133. Carbon dioxide pipeline. "Carbon dioxide
9 pipeline" has the meaning given to that term in Section 10 of
10 the Carbon Dioxide Transportation and Sequestration Act.

11 (415 ILCS 5/3.134 new)

12 Sec. 3.134. Concentrated carbon dioxide fluid.
13 "Concentrated carbon dioxide fluid" means a fluid that
14 contains concentrated carbon dioxide that is proportionately
15 greater than the ambient atmospheric concentration of carbon
16 dioxide.

17 (415 ILCS 5/3.136 new)

18 Sec. 3.136. Confining zone. "Confining zone" means a
19 geologic formation, a group of geologic formations, or part of
20 a geologic formation stratigraphically overlying a zone of
21 carbon dioxide injection that acts as a barrier to fluid
22 movement.

1 (415 ILCS 5/3.446 new)

2 Sec. 3.446. Sequestration. "Sequestration" has the meaning
3 given to that term in Section 10 of the Carbon Dioxide
4 Transport and Storage Protections Act.

5 (415 ILCS 5/3.447 new)

6 Sec. 3.447. Sequestration facility. "Sequestration
7 facility" has the meaning given to that term in Section 10 of
8 the Carbon Dioxide Transport and Storage Protections Act.

9 (415 ILCS 5/9.19 new)

10 Sec. 9.19. Setbacks from carbon dioxide pipelines.

11 (a) The General Assembly finds that:

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

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

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

20 (1) one mile of an occupied residential property,
21 except that if the occupied residential property is part
22 of a development that includes 10 or more occupied
23 residential properties the carbon dioxide pipeline may not
24 be located within 1.5 miles of the occupied residential

1 property;

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

4 (3) one mile of a livestock facility containing 100
5 animals or more;

6 (4) 1.5 miles of a residential, commercial, or
7 industrial structure or facility that typically contain 10
8 or more persons;

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

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

16 (c) Setback distances from carbon dioxide pipelines shall
17 be measured from the center line of the carbon dioxide
18 pipeline. Setback distances from pumps and compressor stations
19 shall be measured from the property line of the pump or
20 compressor station.

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

23 (e) No adjusted standard, variance, or other regulatory
24 relief otherwise available under this Act may be granted for
25 the minimum setback mandates of this Section unless, in
26 addition to satisfying the general requirements for an

1 adjusted standard under Section 28.1 or the standards for a
2 variance under Section 35, as applicable, a person seeking to
3 build or operate a carbon dioxide pipeline includes in the
4 petition for an adjusted standard or variance:

5 (1) computational fluid dynamic computer modeling
6 showing the dispersion of a plume of carbon dioxide
7 following a worst-case rupture of the proposed carbon
8 dioxide pipeline, considering the rupture in both typical
9 and still-air weather conditions in topography typical in
10 the applicable county;

11 (2) data and analysis demonstrating that the carbon
12 dioxide pipeline is proposed to be constructed a
13 sufficient distance from an occupied structure so that
14 carbon dioxide concentrations in or near the occupied
15 structure will not intoxicate, asphyxiate, or otherwise
16 harm the health of any humans or livestock therein; and

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

19 (415 ILCS 5/9.20 new)

20 Sec. 9.20. Carbon dioxide capture.

21 (a) The General Assembly finds that:

22 (1) The capture of carbon dioxide from industrial
23 facilities, including, but not limited to, ethanol plants
24 and methane processing facilities, and electric-generation
25 facilities requires a significant amount of power to

1 undertake, the generation of which can increase harmful
2 air and water pollutants.

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

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

10 (4) The State has a long-standing policy to restore,
11 protect, and enhance the environment, including the purity
12 of the air, land, and waters, such as groundwaters, of
13 this State.

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

16 (6) The capture of carbon dioxide from industrial and
17 electric-generation facilities will not achieve the
18 State's longstanding policy to restore, protect, and
19 enhance the environment unless clear standards are adopted
20 to require the reduction of air and water pollution
21 associated with carbon capture, to limit water use when
22 other important uses are in jeopardy, and to ensure that
23 carbon capture does not interfere with the State reaching
24 its clean energy goals.

25 (7) Meaningful participation of State residents,
26 especially vulnerable populations who may be affected by

1 regulatory actions, is critical to ensure that
2 environmental justice considerations are incorporated in
3 the development of, decision-making related to, and
4 implementation of environmental laws and rules that
5 protect and improve the well-being of communities in this
6 State that bear disproportionate burdens imposed by
7 environmental pollution.

8 (a-5) The purpose of this Section is to promote a
9 healthful environment, including clean water, air, and land,
10 meaningful public involvement, and to ensure only the
11 responsible capture of carbon dioxide occurs in the State so
12 as to protect public health and to prevent pollution of the
13 environment.

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

17 (b) A person who seeks to construct or operate a carbon
18 dioxide capture project in this State must first obtain a
19 permit from the Agency in accordance with the rules adopted
20 under subsection (g).

21 (c) A person who seeks to capture carbon dioxide from an
22 industrial or electric-generation facility in this State must,
23 before seeking a permit in accordance with the rules adopted
24 under subsection (g), first conduct an environmental impact
25 analysis. The environmental impact analysis must:

26 (1) include a statement of the purpose of and need for

1 the proposed carbon capture project;

2 (2) include a greenhouse gas (GHG) inventory analysis,
3 including, but not limited to, Scope 1, 2, and 3 emissions
4 set forth in guidance published by the United States
5 Environmental Protection Agency, of the total GHG
6 emissions associated with the capture, transportation, and
7 sequestration of the carbon dioxide proposed to be
8 captured, which emissions shall be expressed as carbon
9 dioxide equivalent, consistent with the United States
10 Environmental Protection Agency rules and guidance;

11 (3) demonstrate that the Scope 1, 2, and 3 emissions
12 associated with the capture, transportation, and
13 sequestration of the carbon dioxide proposed to be
14 captured, converted into carbon dioxide equivalent
15 consistent with United States Environmental Protection
16 Agency rules and guidance, will not exceed the total
17 amount of GHG captured on an annual basis for each year the
18 project remains in operation;

19 (4) include a water impact analysis that details:

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

22 (B) current uses of those water sources;

23 (C) potential or certain impacts to those water
24 sources from capture of carbon dioxide from the
25 facility, including, but not limited to, impacts on
26 water quantity, quality, and current uses of water;

1 (D) the duration of the impacts to water
2 associated with the capture of carbon dioxide from the
3 facility; and

4 (E) methods the applicant will use to minimize
5 both water use and impacts to water quality associated
6 with the carbon capture project;

7 (5) include an alternatives analysis that evaluates
8 other reasonable alternatives for reducing the same
9 quantity of carbon dioxide as is proposed to be captured
10 at the facility, including, but not limited to:

11 (A) if the carbon dioxide is proposed to be
12 captured at a facility that generates electricity,
13 energy-generation alternatives such as renewable
14 energy, energy storage, or energy efficiency;

15 (B) if the carbon dioxide is proposed to be
16 captured at a facility that produces fuel for vehicles
17 or equipment, alternatives such as the use of electric
18 vehicles; and

19 (C) if the carbon dioxide is proposed to be
20 captured at an industrial facility, alternative
21 industrial processes that could reduce the amount of
22 carbon dioxide generated from that industry.

23 For each alternative identified under this paragraph,
24 the person seeking to capture carbon dioxide shall
25 complete a greenhouse gas emissions inventory and analysis
26 of the alternative consistent with paragraph (2) and a

1 water impacts analysis addressing the factors set out in
2 paragraph (3); and

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

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

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

26 (2) the permit includes conditions, developed in

1 consultation with the Illinois State Water Survey and
2 taking public comments into consideration, under which the
3 project must reduce the volume or rate of water that may be
4 used for the capture of carbon dioxide, up to and
5 including the cessation of water usage for carbon capture.

6 (e) No permit for the capture of carbon dioxide may be
7 issued unless the permit applicant demonstrates that there
8 will be zero non-carbon dioxide air pollution emissions
9 associated with the carbon dioxide capture project; these
10 emissions include non-carbon dioxide air pollution emitted
11 directly by the operation of the carbon dioxide capture
12 equipment, and any increase in non-carbon dioxide air
13 pollution emissions at the facility, relative to the baseline,
14 following installation of the carbon dioxide capture process.
15 The applicant may meet this requirement by demonstrating that:

16 (1) pollution control technology will be installed and
17 operated, or existing control technology will be operated,
18 so as to eliminate any non-carbon dioxide air emissions
19 associated with the use of carbon capture; or

20 (2) the facility will reduce operations sufficient to
21 eliminate any non-carbon dioxide air emissions associated
22 with the use of carbon capture.

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

1 of carbon capture at those facilities. For existing
2 facilities, the baseline shall be calculated using the
3 12-month average of emissions for the 3 12-month periods
4 before January 31, 2023. For new facilities, the baseline
5 shall be determined using the Best Available Control
6 Technology, as defined in Section 169 of the federal Clean Air
7 Act, for the relevant air pollutants and facility and assuming
8 fuel consumption and hours of operation of the facility
9 consistent with that of facilities of similar size.

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

12 (1) the applicant identifies the end use or
13 destination of all carbon dioxide streams from the
14 proposed project;

15 (2) if the destination includes sequestration within
16 the State, the applicant demonstrates that the
17 sequestration site is permitted in accordance with Section
18 22.63;

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

22 (4) the permit disallows all non-carbon dioxide air
23 emissions associated with the use of carbon capture and
24 specifies each mechanism by which the applicant must meet
25 that condition.

26 (g) The Board shall adopt rules establishing permit

1 requirements under this Section and other standards for carbon
2 dioxide capture projects. The rules shall be proposed by the
3 Agency not later than one year after the effective date of this
4 amendatory Act of the 103rd General Assembly and adopted by
5 the Board not later than 2 years after receipt of the Agency's
6 proposal. The rules must, at a minimum:

7 (1) be no less protective than federal requirements
8 for air pollution and water pollution that are in effect
9 on the effective date of this amendatory Act of the 103rd
10 General Assembly and any amendments to those requirements
11 that may be more protective;

12 (2) specify the minimum content of applications for a
13 permit to capture carbon dioxide, which shall include, but
14 shall not be limited to:

15 (A) the environmental impacts analyses required
16 under subsection (c);

17 (B) identification of whether the proposed carbon
18 capture project would take place in an area of
19 environmental justice concern; and

20 (C) documentation and analyses sufficient to
21 demonstrate compliance with all applicable rules
22 adopted under this Section for the capture of carbon
23 dioxide from industrial and electric-generation
24 facilities;

25 (3) specify:

26 (A) the frequency at which permits for the capture

1 of carbon dioxide expire and must be renewed;

2 (B) the circumstances under which a permittee must
3 seek a permit modification; and

4 (C) the circumstances under which the Agency may
5 temporarily or permanently revoke a permit for the
6 capture of carbon dioxide;

7 (4) specify standards for review, approval, and denial
8 of applications for a permit to capture carbon dioxide by
9 the Agency; the standards for denial must include, but are
10 not limited to, failure of the applicant to submit an
11 environmental impacts analysis meeting the requirements
12 under subsection (c) or to satisfy the requirements of
13 subsection (e);

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

17 (A) public notice of the submission of permit
18 applications;

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

22 (C) an opportunity for the submission of public
23 comments;

24 (D) an opportunity for a public hearing before the
25 permit is issued; and

26 (E) a summary and response of the comments

1 prepared by the Agency;

2 (6) when the capture of carbon dioxide is proposed to
3 take place in an area of environmental justice concern,
4 specify further opportunities for public participation,
5 including, but not limited to, public meetings,
6 translations of relevant documents into other languages
7 for residents with limited English proficiency, and
8 interpretation services at public meetings and hearings;

9 (7) specify a procedure to identify areas of
10 environmental justice concern in relation to industrial or
11 electric-generation facilities from which a permit
12 applicant seeks to capture carbon dioxide;

13 (8) set out requirements for frequent, comprehensive
14 reporting by permittees to the Agency, including, but not
15 limited to:

16 (A) the non-carbon dioxide air emissions
17 associated with the use of carbon capture, including,
18 but not limited to, those emissions resulting from the
19 use of fuel to power the carbon capture process;

20 (B) GHG emissions associated with the use of
21 carbon capture;

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

24 (D) the total amount, in tons, of carbon dioxide
25 not captured and released into the atmosphere at the
26 facility;

1 (E) the date, time, duration, cause, and amount of
2 carbon dioxide released rather than captured as a
3 result of all outages or downtime of capture equipment
4 at the facility;

5 (F) information concerning water use and impacts
6 to water supply and uses associated with the use of
7 carbon capture at the facility; and

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

10 (9) establish criteria for the exclusion from
11 permitting requirements of carbon capture projects
12 performed for the purpose of, or financed by funding for,
13 research and development; the criteria shall ensure that
14 only those projects that capture small amounts of carbon
15 dioxide and pose minimal risk to human health and the
16 environmental qualify for the exclusion; and

17 (10) specify whether the permit requirements for
18 carbon dioxide capture set out in the rules may be added to
19 the requirements for a permit that a carbon dioxide
20 capture permit applicant is otherwise required to obtain,
21 or whether the applicant must obtain a separate permit for
22 the capture of carbon dioxide.

23 (h) The permit requirements set forth in this Section are
24 in addition to any requirements set forth under any other
25 State or federal law, including, but not limited to, the
26 federal Clean Air Act, the federal Clean Water Act, the

1 federal Resource Conservation and Recovery Act, and the
2 federal Safe Drinking Water Act.

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

6 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

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

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

9 (b) Abandon, dump, or deposit any waste upon the public
10 highways or other public property, except in a sanitary
11 landfill approved by the Agency pursuant to regulations
12 adopted by the Board.

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

16 (d) Conduct any waste-storage, waste-treatment, or
17 waste-disposal operation:

18 (1) without a permit granted by the Agency or in
19 violation of any conditions imposed by such permit,
20 including periodic reports and full access to adequate
21 records and the inspection of facilities, as may be
22 necessary to assure compliance with this Act and with
23 regulations and standards adopted thereunder; provided,
24 however, that, except for municipal solid waste landfill
25 units that receive waste on or after October 9, 1993, and

1 CCR surface impoundments, no permit shall be required for
2 (i) any person conducting a waste-storage,
3 waste-treatment, or waste-disposal operation for wastes
4 generated by such person's own activities which are
5 stored, treated, or disposed within the site where such
6 wastes are generated, (ii) until one year after the
7 effective date of rules adopted by the Board under
8 subsection (n) of Section 22.38, a facility located in a
9 county with a population over 700,000 as of January 1,
10 2000, operated and located in accordance with Section
11 22.38 of this Act, and used exclusively for the transfer,
12 storage, or treatment of general construction or
13 demolition debris, provided that the facility was
14 receiving construction or demolition debris on August 24,
15 2009 (the effective date of Public Act 96-611), or (iii)
16 any person conducting a waste transfer, storage,
17 treatment, or disposal operation, including, but not
18 limited to, a waste transfer or waste composting
19 operation, under a mass animal mortality event plan
20 created by the Department of Agriculture;

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

23 (3) which receives waste after August 31, 1988, does
24 not have a permit issued by the Agency, and is (i) a
25 landfill used exclusively for the disposal of waste
26 generated at the site, (ii) a surface impoundment

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

16 Item (3) of this subsection (d) shall not apply to any
17 person engaged in agricultural activity who is disposing of a
18 substance that constitutes solid waste, if the substance was
19 acquired for use by that person on his own property, and the
20 substance is disposed of on his own property in accordance
21 with regulations or standards adopted by the Board.

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

23 (e) Dispose, treat, store or abandon any waste, or
24 transport any waste into this State for disposal, treatment,
25 storage or abandonment, except at a site or facility which
26 meets the requirements of this Act and of regulations and

1 standards thereunder.

2 (f) Conduct any hazardous waste-storage, hazardous
3 waste-treatment or hazardous waste-disposal operation:

4 (1) without a RCRA permit for the site issued by the
5 Agency under subsection (d) of Section 39 of this Act, or
6 in violation of any condition imposed by such permit,
7 including periodic reports and full access to adequate
8 records and the inspection of facilities, as may be
9 necessary to assure compliance with this Act and with
10 regulations and standards adopted thereunder; or

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

13 (3) in violation of any RCRA permit filing requirement
14 established under standards adopted by the Board under
15 this Act; or

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

18 Notwithstanding the above, no RCRA permit shall be
19 required under this subsection or subsection (d) of Section 39
20 of this Act for any person engaged in agricultural activity
21 who is disposing of a substance which has been identified as a
22 hazardous waste, and which has been designated by Board
23 regulations as being subject to this exception, if the
24 substance was acquired for use by that person on his own
25 property and the substance is disposed of on his own property
26 in accordance with regulations or standards adopted by the

1 Board.

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

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

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

8 (h) Conduct any hazardous waste-recycling or hazardous
9 waste-reclamation or hazardous waste-reuse operation in
10 violation of any regulations, standards or permit requirements
11 adopted by the Board under this Act.

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

16 (j) Conduct any special waste-transportation operation in
17 violation of any regulations, standards or permit requirements
18 adopted by the Board under this Act. However, sludge from a
19 water or sewage treatment plant owned and operated by a unit of
20 local government which (1) is subject to a sludge management
21 plan approved by the Agency or a permit granted by the Agency,
22 and (2) has been tested and determined not to be a hazardous
23 waste as required by applicable State and federal laws and
24 regulations, may be transported in this State without a
25 special waste hauling permit, and the preparation and carrying
26 of a manifest shall not be required for such sludge under the

1 rules of the Pollution Control Board. The unit of local
2 government which operates the treatment plant producing such
3 sludge shall file an annual report with the Agency identifying
4 the volume of such sludge transported during the reporting
5 period, the hauler of the sludge, and the disposal sites to
6 which it was transported. This subsection (j) shall not apply
7 to hazardous waste.

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

9 (l) Locate a hazardous waste disposal site above an active
10 or inactive shaft or tunneled mine or within 2 miles of an
11 active fault in the earth's crust. In counties of population
12 less than 225,000 no hazardous waste disposal site shall be
13 located (1) within 1 1/2 miles of the corporate limits as
14 defined on June 30, 1978, of any municipality without the
15 approval of the governing body of the municipality in an
16 official action; or (2) within 1000 feet of an existing
17 private well or the existing source of a public water supply
18 measured from the boundary of the actual active permitted site
19 and excluding existing private wells on the property of the
20 permit applicant. The provisions of this subsection do not
21 apply to publicly owned sewage works or the disposal or
22 utilization of sludge from publicly owned sewage works.

23 (m) Transfer interest in any land which has been used as a
24 hazardous waste disposal site without written notification to
25 the Agency of the transfer and to the transferee of the
26 conditions imposed by the Agency upon its use under subsection

1 (g) of Section 39.

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

5 (o) Conduct a sanitary landfill operation which is
6 required to have a permit under subsection (d) of this
7 Section, in a manner which results in any of the following
8 conditions:

9 (1) refuse in standing or flowing waters;

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

11 (3) leachate flows exiting the landfill confines (as
12 determined by the boundaries established for the landfill
13 by a permit issued by the Agency);

14 (4) open burning of refuse in violation of Section 9
15 of this Act;

16 (5) uncovered refuse remaining from any previous
17 operating day or at the conclusion of any operating day,
18 unless authorized by permit;

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

21 (7) acceptance of wastes without necessary permits;

22 (8) scavenging as defined by Board regulations;

23 (9) deposition of refuse in any unpermitted portion of
24 the landfill;

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

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

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

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

8 The prohibitions specified in this subsection (o) shall be
9 enforceable by the Agency either by administrative citation
10 under Section 31.1 of this Act or as otherwise provided by this
11 Act. The specific prohibitions in this subsection do not limit
12 the power of the Board to establish regulations or standards
13 applicable to sanitary landfills.

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

17 (1) litter;

18 (2) scavenging;

19 (3) open burning;

20 (4) deposition of waste in standing or flowing waters;

21 (5) proliferation of disease vectors;

22 (6) standing or flowing liquid discharge from the dump
23 site;

24 (7) deposition of:

25 (i) general construction or demolition debris as
26 defined in Section 3.160(a) of this Act; or

1 (ii) clean construction or demolition debris as
2 defined in Section 3.160(b) of this Act.

3 The prohibitions specified in this subsection (p) shall be
4 enforceable by the Agency either by administrative citation
5 under Section 31.1 of this Act or as otherwise provided by this
6 Act. The specific prohibitions in this subsection do not limit
7 the power of the Board to establish regulations or standards
8 applicable to open dumping.

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

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

16 (1.5) conducting a landscape waste composting
17 operation that (i) has no more than 25 cubic yards of
18 landscape waste, composting additives, composting
19 material, or end-product compost on-site at any one time
20 and (ii) is not engaging in commercial activity; or

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

23 (2.5) operating a landscape waste composting facility
24 at a site having 10 or more occupied non-farm residences
25 within 1/2 mile of its boundaries, if the facility meets
26 all of the following criteria:

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

5 (A-5) any composting additives that the composting
6 facility accepts and uses at the facility are
7 necessary to provide proper conditions for composting
8 and do not exceed 10% of the total composting material
9 at the facility at any one time;

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

20 (C) all compost generated by the composting
21 facility is applied at agronomic rates and used as
22 mulch, fertilizer, or soil conditioner on land
23 actually farmed by the person operating the composting
24 facility, and the finished compost is not stored at
25 the composting site for a period longer than 18 months
26 prior to its application as mulch, fertilizer, or soil

1 conditioner;

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

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

1 that is used to meet the requirements of this
2 subparagraph (E) of paragraph (2.5) of this subsection
3 must specifically reference this paragraph; or

4 (3) operating a landscape waste composting facility on
5 a farm, if the facility meets all of the following
6 criteria:

7 (A) the composting facility is operated by the
8 farmer on property on which the composting material is
9 utilized, and the composting facility constitutes no
10 more than 2% of the property's total acreage, except
11 that the Board may allow a higher percentage for
12 individual sites where the owner or operator has
13 demonstrated to the Board that the site's soil
14 characteristics or crop needs require a higher rate;

15 (A-1) the composting facility accepts from other
16 agricultural operations for composting with landscape
17 waste no materials other than uncontaminated and
18 source-separated (i) crop residue and other
19 agricultural plant residue generated from the
20 production and harvesting of crops and other customary
21 farm practices, including, but not limited to, stalks,
22 leaves, seed pods, husks, bagasse, and roots and (ii)
23 plant-derived animal bedding, such as straw or
24 sawdust, that is free of manure and was not made from
25 painted or treated wood;

26 (A-2) any composting additives that the composting

1 facility accepts and uses at the facility are
2 necessary to provide proper conditions for composting
3 and do not exceed 10% of the total composting material
4 at the facility at any one time;

5 (B) the property on which the composting facility
6 is located, and any associated property on which the
7 compost is used, is principally and diligently devoted
8 to the production of agricultural crops and is not
9 owned, leased or otherwise controlled by any waste
10 hauler or generator of nonagricultural compost
11 materials, and the operator of the composting facility
12 is not an employee, partner, shareholder, or in any
13 way connected with or controlled by any such waste
14 hauler or generator;

15 (C) all compost generated by the composting
16 facility is applied at agronomic rates and used as
17 mulch, fertilizer or soil conditioner on land actually
18 farmed by the person operating the composting
19 facility, and the finished compost is not stored at
20 the composting site for a period longer than 18 months
21 prior to its application as mulch, fertilizer, or soil
22 conditioner;

23 (D) the owner or operator, by January 1 of each
24 year, (i) registers the site with the Agency, (ii)
25 reports to the Agency on the volume of composting
26 material received and used at the site, (iii)

1 certifies to the Agency that the site complies with
2 the requirements set forth in subparagraphs (A),
3 (A-1), (A-2), (B), and (C) of this paragraph (q)(3),
4 and (iv) certifies to the Agency that all composting
5 material:

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

8 (II) was placed outside the boundary of the
9 10-year floodplain or on a part of the site that is
10 floodproofed;

11 (III) was placed either (aa) at least 1/4 mile
12 from the nearest residence (other than a residence
13 located on the same property as the facility) and
14 there are not more than 10 occupied non-farm
15 residences within 1/2 mile of the boundaries of
16 the site on the date of application or (bb) a
17 lesser distance from the nearest residence (other
18 than a residence located on the same property as
19 the facility) provided that the municipality or
20 county in which the facility is located has by
21 ordinance approved a lesser distance than 1/4 mile
22 and there are not more than 10 occupied non-farm
23 residences within 1/2 mile of the boundaries of
24 the site on the date of application; and

25 (IV) was placed more than 5 feet above the
26 water table.

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

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

11 (r) Cause or allow the storage or disposal of coal
12 combustion waste unless:

13 (1) such waste is stored or disposed of at a site or
14 facility for which a permit has been obtained or is not
15 otherwise required under subsection (d) of this Section;
16 or

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

21 (3) such waste is stored or disposed of at a site or
22 facility which is operating under NPDES and Subtitle D
23 permits issued by the Agency pursuant to regulations
24 adopted by the Board for mine-related water pollution and
25 permits issued pursuant to the federal Surface Mining
26 Control and Reclamation Act of 1977 (P.L. 95-87) or the

1 rules and regulations thereunder or any law or rule or
2 regulation adopted by the State of Illinois pursuant
3 thereto, and the owner or operator of the facility agrees
4 to accept the waste; and either:

5 (i) such waste is stored or disposed of in
6 accordance with requirements applicable to refuse
7 disposal under regulations adopted by the Board for
8 mine-related water pollution and pursuant to NPDES and
9 Subtitle D permits issued by the Agency under such
10 regulations; or

11 (ii) the owner or operator of the facility
12 demonstrates all of the following to the Agency, and
13 the facility is operated in accordance with the
14 demonstration as approved by the Agency: (1) the
15 disposal area will be covered in a manner that will
16 support continuous vegetation, (2) the facility will
17 be adequately protected from wind and water erosion,
18 (3) the pH will be maintained so as to prevent
19 excessive leaching of metal ions, and (4) adequate
20 containment or other measures will be provided to
21 protect surface water and groundwater from
22 contamination at levels prohibited by this Act, the
23 Illinois Groundwater Protection Act, or regulations
24 adopted pursuant thereto.

25 Notwithstanding any other provision of this Title, the
26 disposal of coal combustion waste pursuant to item (2) or (3)

1 of this subdivision (r) shall be exempt from the other
2 provisions of this Title V, and notwithstanding the provisions
3 of Title X of this Act, the Agency is authorized to grant
4 experimental permits which include provision for the disposal
5 of wastes from the combustion of coal and other materials
6 pursuant to items (2) and (3) of this subdivision (r).

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

11 (t) Cause or allow a lateral expansion of a municipal
12 solid waste landfill unit on or after October 9, 1993, without
13 a permit modification, granted by the Agency, that authorizes
14 the lateral expansion.

15 (u) Conduct any vegetable by-product treatment, storage,
16 disposal or transportation operation in violation of any
17 regulation, standards or permit requirements adopted by the
18 Board under this Act. However, no permit shall be required
19 under this Title V for the land application of vegetable
20 by-products conducted pursuant to Agency permit issued under
21 Title III of this Act to the generator of the vegetable
22 by-products. In addition, vegetable by-products may be
23 transported in this State without a special waste hauling
24 permit, and without the preparation and carrying of a
25 manifest.

26 (v) (Blank).

1 (w) Conduct any generation, transportation, or recycling
2 of construction or demolition debris, clean or general, or
3 uncontaminated soil generated during construction, remodeling,
4 repair, and demolition of utilities, structures, and roads
5 that is not commingled with any waste, without the maintenance
6 of documentation identifying the hauler, generator, place of
7 origin of the debris or soil, the weight or volume of the
8 debris or soil, and the location, owner, and operator of the
9 facility where the debris or soil was transferred, disposed,
10 recycled, or treated. This documentation must be maintained by
11 the generator, transporter, or recycler for 3 years. This
12 subsection (w) shall not apply to (1) a permitted pollution
13 control facility that transfers or accepts construction or
14 demolition debris, clean or general, or uncontaminated soil
15 for final disposal, recycling, or treatment, (2) a public
16 utility (as that term is defined in the Public Utilities Act)
17 or a municipal utility, (3) the Illinois Department of
18 Transportation, or (4) a municipality or a county highway
19 department, with the exception of any municipality or county
20 highway department located within a county having a population
21 of over 3,000,000 inhabitants or located in a county that is
22 contiguous to a county having a population of over 3,000,000
23 inhabitants; but it shall apply to an entity that contracts
24 with a public utility, a municipal utility, the Illinois
25 Department of Transportation, or a municipality or a county
26 highway department. The terms "generation" and "recycling", as

1 used in this subsection, do not apply to clean construction or
2 demolition debris when (i) used as fill material below grade
3 outside of a setback zone if covered by sufficient
4 uncontaminated soil to support vegetation within 30 days of
5 the completion of filling or if covered by a road or structure,
6 (ii) solely broken concrete without protruding metal bars is
7 used for erosion control, or (iii) milled asphalt or crushed
8 concrete is used as aggregate in construction of the shoulder
9 of a roadway. The terms "generation" and "recycling", as used
10 in this subsection, do not apply to uncontaminated soil that
11 is not commingled with any waste when (i) used as fill material
12 below grade or contoured to grade, or (ii) used at the site of
13 generation.

14 (x) Conduct any carbon sequestration operation:

15 (1) without a permit granted by the Agency in
16 accordance with Section 22.63 and any rules adopted under
17 that Section, or in violation of any condition imposed by
18 the permit, including periodic reports and full access to
19 adequate records and the inspection of facilities as may
20 be necessary to ensure compliance with this Act and any
21 rules or standards adopted under this Act;

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

24 (3) in violation of any order adopted by the Board
25 under this Act; or

26 (4) in any pore space underlying public lands,

1 including, but not limited to, lands owned by county,
2 municipal, State, or federal authorities.

3 (y) Inject any concentrated carbon dioxide fluid produced
4 by a carbon dioxide capture project into a Class II well for
5 purposes of enhanced oil recovery, including, but not limited
6 to, the facilitation of enhanced oil recovery from another
7 well.

8 (z) Sell or transport concentrated carbon dioxide fluid
9 produced by a carbon dioxide capture project for use in
10 enhanced oil recovery.

11 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
12 102-310, eff. 8-6-21; 102-558, eff. 8-20-21; 102-813, eff.
13 5-13-22.)

14 (415 ILCS 5/22.63 new)

15 Sec. 22.63. Carbon sequestration.

16 (a) The General Assembly finds that:

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

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

23 (3) The sequestration of carbon in underground
24 formations poses a significant and long-term risk to the
25 air, land, and waters, including groundwater, of the State

1 unless the State adopts clear standards to ensure that no
2 sequestered carbon escapes the underground formation into
3 which it is injected.

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

13 (a-5) The purpose of this Section is to promote a
14 healthful environment, including clean water, air, and land,
15 meaningful public involvement and to ensure only responsible
16 sequestration of carbon dioxide occurs in the State so as to
17 protect public health and to prevent pollution of the
18 environment.

19 (a-10) The provisions of this Section shall be liberally
20 construed to carry out the purposes of this Section.

21 (b) Any person seeking to sequester carbon dioxide in this
22 State must first obtain a carbon sequestration permit from the
23 Agency in accordance with the rules developed under subsection
24 (h).

25 (c) Any person seeking to sequester carbon dioxide in this
26 State must, before seeking a carbon sequestration permit in

1 accordance with the rules developed under subsection (h),
2 first conduct an environmental impact analysis. The
3 environmental impact analysis must:

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

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

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

19 (A) the water sources likely to be impacted by the
20 capture, transportation, and sequestration of the
21 carbon dioxide proposed to be sequestered;

22 (B) current uses of those water sources;

23 (C) potential or certain impacts to those water
24 sources from capture, transportation, and
25 sequestration of the carbon dioxide, including impacts
26 to water quantity, quality, and current uses;

1 (D) the duration of the impacts to water
2 associated with the capture, transportation, and
3 sequestration of the carbon dioxide proposed to be
4 sequestered; and

5 (E) the methods the applicant will use to minimize
6 both water use and impacts to water quality associated
7 with the sequestration of carbon dioxide;

8 (4) include an alternatives analysis that evaluates
9 other reasonable alternatives for achieving the same
10 volume of carbon dioxide emissions reductions as are
11 proposed to be achieved through carbon sequestration,
12 including, but not limited to:

13 (A) if the carbon dioxide was captured at a
14 facility that generates electricity, energy-generation
15 alternatives such as renewable energy, energy storage,
16 or energy efficiency;

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

20 (C) if the carbon dioxide was captured at an
21 industrial facility, alternative industrial processes
22 that could reduce the amount of carbon dioxide
23 generated.

24 For each alternative identified under this paragraph,
25 the person seeking to sequester carbon dioxide shall
26 complete a GHG inventory analysis of the alternative

1 consistent with paragraph (2) and a water impacts analysis
2 addressing the factors set out in paragraph (3); and

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

16 (d) Any person seeking to sequester carbon dioxide in this
17 State must, before seeking a carbon sequestration permit in
18 accordance with the rules developed under subsection (h),
19 first conduct an area of review analysis that:

20 (1) identifies any faults, fractures, cracks,
21 abandoned or operating wells, mine shafts, quarries,
22 seismic activity, or other features of the proposed area
23 of review that could interfere with containment of carbon
24 dioxide; and

25 (2) if any such feature is present, demonstrates that
26 the feature will not interfere with carbon dioxide

1 containment.

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

4 (1) the Illinois State Water Survey has reviewed the
5 water impact analysis required under paragraph (3) of
6 subsection (c) and, taking into consideration that
7 analysis, information available to the Illinois State
8 Water Survey concerning water supply and uses, and public
9 comment, concluded that the proposed carbon dioxide
10 sequestration project will not have significant adverse
11 effects on water supply or current or future uses of the
12 water source; and

13 (2) the permit sets out conditions, determined in
14 consultation with the Illinois State Water Survey and
15 taking into consideration public comments, under which the
16 project operator must reduce the volume or rate of water
17 that may be utilized for the sequestration of carbon
18 dioxide, as well as conditions under which the use of
19 water for carbon sequestration must be halted altogether.

20 (f) Any person who applies for or is granted a permit for
21 carbon sequestration under this Section shall post with the
22 Agency a performance bond or other security in accordance with
23 this Act and the rules developed under subsection (h). The
24 only acceptable forms of financial assurance are a trust fund,
25 a surety bond guaranteeing payment, a surety bond guaranteeing
26 performance, or an irrevocable letter of credit.

1 The Agency may enter into contracts and agreements it
2 deems necessary to carry out the purposes of this Section.
3 Neither the State nor any State employee shall be liable for
4 any damages or injuries arising out of or resulting from any
5 action taken under this Section.

6 The Agency may approve or disapprove any performance bond
7 or other security posted under this subsection. Any person
8 whose performance bond or other security is disapproved by the
9 Agency may contest the disapproval as a permit denial appeal
10 under Section 40.

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

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

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

1 (3) proof of insurance to cover injuries, damages, or
2 losses related to a release of carbon dioxide in the
3 amount of at least \$250,000,000, from an insurance carrier
4 authorized, licensed, or permitted to do business in this
5 State and that holds at least an A- rating by an American
6 credit rating agency that focuses on the insurance
7 industry.

8 A registrant must notify the Department of any change in
9 the information identified in paragraph (1), (2), or (3) no
10 later than one month after the change, or sooner upon request
11 of the Agency.

12 If granted a carbon sequestration permit under this
13 Section, the permittee must maintain insurance in accordance
14 with paragraph (3) throughout the period during which carbon
15 dioxide is injected into the sequestration site and at least
16 100 years thereafter.

17 (h) The Board shall adopt rules establishing permit
18 requirements and other standards for carbon sequestration. The
19 Board's rules shall address, but are not limited to, the
20 following issues: applicability; required permit information;
21 minimum criteria for siting; area of review and corrective
22 action; financial responsibility; injection well construction
23 requirements; logging, sampling, and testing requirements
24 before injection well operation; injection well operating
25 requirements; mechanical integrity; testing and monitoring
26 requirements; reporting requirements; injection well plugging;

1 post-injection site care and site closure; emergency and
2 remedial response; and security protections for injection
3 wells, monitors, and other associated infrastructure to
4 prevent tampering with sequestration-related equipment.

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

10 (1) be at least as protective and comprehensive as the
11 federal rules, regulations, or amendments thereto adopted
12 by the Administrator of the United States Environmental
13 Protection Agency under the provisions of 40 CFR 146
14 governing Class VI wells;

15 (2) specify the minimum contents of carbon
16 sequestration permit applications, which shall include the
17 environmental impact analyses required under subsection
18 (c), the area of review analysis required under subsection
19 (d), and documentation and analyses sufficient to
20 demonstrate compliance with all applicable rules for
21 carbon sequestration adopted under this Section;

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

1 sequestration permit;

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

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

7 (A) public notice of the submission of permit
8 applications;

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

12 (C) an opportunity for the submission of public
13 comments;

14 (D) an opportunity for a public hearing prior to
15 permit issuance; and

16 (E) a summary and response of the comments
17 prepared by the Agency; when the sequestration is
18 proposed to take place in an area of environmental
19 justice concern, the rules shall specify further
20 opportunities for public participation, including, but
21 not limited to, public meetings, translations of
22 relevant documents into other languages for residents
23 with limited English proficiency, and interpretation
24 services at public meetings and hearings;

25 (6) prescribe the type and amount of the performance
26 bonds or other securities required under subsection (f)

1 and the conditions under which the State is entitled to
2 collect moneys from such performance bonds or other
3 securities;

4 (7) specify a procedure to identify areas of
5 environmental justice concern in relation to sequestration
6 facilities;

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

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

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

17 (C) does not intersect with any aquifer that is
18 hydraulically connected to aquifers containing
19 groundwater classified as Class 1, Class 2, or Class 3
20 under 35 Ill. Adm. Code Part 620, Subpart B; and

21 (D) does not contain any faults, fractures,
22 abandoned or operating wells, mine shafts, quarries,
23 or other features that could interfere with
24 containment of carbon dioxide;

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

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

3 (11) specify the types of monitors and frequency of
4 monitoring to be performed at carbon sequestration
5 facilities, which, in addition to monitoring required
6 under 40 CFR 146, shall include surface air monitoring,
7 soil gas monitoring, seismicity monitoring, and any other
8 types of monitoring the Board determines are appropriate
9 to protect health and the environment;

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

12 (13) establish reporting requirements for carbon
13 sequestration permittees, which, in addition to the
14 reporting required under 40 CFR 146, shall include, but
15 are not limited to, the mass of carbon dioxide transported
16 to sequestration facilities, the facilities from which
17 that carbon dioxide was captured, seismic events of
18 significant magnitude, and malfunctions or downtime of any
19 monitors.

20 No adjusted standard, variance, or other regulatory relief
21 otherwise available under this Act may be granted from the
22 requirements of this Section.

23 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

24 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

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

1 (y) of this Section.

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

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

19 After June 30, 1998, operating permits issued under this
20 Section by the Agency for sources of air pollution that are not
21 subject to Section 39.5 of this Act and are not required to
22 have a federally enforceable State operating permit shall be
23 required to be renewed only upon written request by the Agency
24 consistent with applicable provisions of this Act and its
25 rules. Such operating permits shall expire 180 days after the
26 date of such a request. Before July 1, 1998, the Board shall

1 revise its rules for the existing State air pollution
2 operating permit program consistent with this paragraph and
3 shall adopt rules that require a source to demonstrate that it
4 qualifies for a permit under this paragraph.

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

10 All NPDES permits shall contain those terms and
11 conditions, including, but not limited to, schedules of
12 compliance, which may be required to accomplish the purposes
13 and provisions of this Act.

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

20 The Agency may include, among such conditions, effluent
21 limitations and other requirements established under this Act,
22 Board regulations, the Federal Water Pollution Control Act, as
23 now or hereafter amended, and regulations pursuant thereto,
24 and schedules for achieving compliance therewith at the
25 earliest reasonable date.

26 The Agency shall adopt filing requirements and procedures

1 which are necessary and appropriate for the issuance of NPDES
2 permits, and which are consistent with the Act or regulations
3 adopted by the Board, and with the Federal Water Pollution
4 Control Act, as now or hereafter amended, and regulations
5 pursuant thereto.

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

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

1 approval is filed.

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

18 Beginning August 20, 1993, if the pollution control
19 facility consists of a hazardous or solid waste disposal
20 facility for which the proposed site is located in an
21 unincorporated area of a county with a population of less than
22 100,000 and includes all or a portion of a parcel of land that
23 was, on April 1, 1993, adjacent to a municipality having a
24 population of less than 5,000, then the local siting review
25 required under this subsection (c) in conjunction with any
26 permit applied for after that date shall be performed by the

1 governing body of that adjacent municipality rather than the
2 county board of the county in which the proposed site is
3 located; and for the purposes of that local siting review, any
4 references in this Act to the county board shall be deemed to
5 mean the governing body of that adjacent municipality;
6 provided, however, that the provisions of this paragraph shall
7 not apply to any proposed site which was, on April 1, 1993,
8 owned in whole or in part by another municipality.

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

19 After January 1, 1994, if a solid waste disposal facility,
20 any portion for which an operating permit has been issued by
21 the Agency, has not accepted waste disposal for 5 or more
22 consecutive calendar years, before that facility may accept
23 any new or additional waste for disposal, the owner and
24 operator must obtain a new operating permit under this Act for
25 that facility unless the owner and operator have applied to
26 the Agency for a permit authorizing the temporary suspension

1 of waste acceptance. The Agency may not issue a new operation
2 permit under this Act for the facility unless the applicant
3 has submitted proof to the Agency that the location of the
4 facility has been approved or re-approved by the appropriate
5 county board or municipal governing body under Section 39.2 of
6 this Act after the facility ceased accepting waste.

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

15 Before beginning construction on any new sewage treatment
16 plant or sludge drying site to be owned or operated by a
17 sanitary district organized under the Metropolitan Water
18 Reclamation District Act for which a new permit (rather than
19 the renewal or amendment of an existing permit) is required,
20 such sanitary district shall hold a public hearing within the
21 municipality within which the proposed facility is to be
22 located, or within the nearest community if the proposed
23 facility is to be located within an unincorporated area, at
24 which information concerning the proposed facility shall be
25 made available to the public, and members of the public shall
26 be given the opportunity to express their views concerning the

1 proposed facility.

2 The Agency may issue a permit for a municipal waste
3 transfer station without requiring approval pursuant to
4 Section 39.2 provided that the following demonstration is
5 made:

6 (1) the municipal waste transfer station was in
7 existence on or before January 1, 1979 and was in
8 continuous operation from January 1, 1979 to January 1,
9 1993;

10 (2) the operator submitted a permit application to the
11 Agency to develop and operate the municipal waste transfer
12 station during April of 1994;

13 (3) the operator can demonstrate that the county board
14 of the county, if the municipal waste transfer station is
15 in an unincorporated area, or the governing body of the
16 municipality, if the station is in an incorporated area,
17 does not object to resumption of the operation of the
18 station; and

19 (4) the site has local zoning approval.

20 (d) The Agency may issue RCRA permits exclusively under
21 this subsection to persons owning or operating a facility for
22 the treatment, storage, or disposal of hazardous waste as
23 defined under this Act. Subsection (y) of this Section, rather
24 than this subsection (d), shall apply to permits issued for
25 CCR surface impoundments.

26 All RCRA permits shall contain those terms and conditions,

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

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

17 The Agency shall adopt filing requirements and procedures
18 which are necessary and appropriate for the issuance of RCRA
19 permits, and which are consistent with the Act or regulations
20 adopted by the Board, and with the Resource Conservation and
21 Recovery Act of 1976 (P.L. 94-580), as amended, and
22 regulations pursuant thereto.

23 The applicant shall make available to the public for
24 inspection all documents submitted by the applicant to the
25 Agency in furtherance of an application, with the exception of
26 trade secrets, at the office of the county board or governing

1 body of the municipality. Such documents may be copied upon
2 payment of the actual cost of reproduction during regular
3 business hours of the local office. The Agency shall issue a
4 written statement concurrent with its grant or denial of the
5 permit explaining the basis for its decision.

6 (e) The Agency may issue UIC permits exclusively under
7 this subsection to persons owning or operating a facility for
8 the underground injection of contaminants as defined under
9 this Act, except that the Agency shall issue any permits for
10 underground injection wells for the sequestration of carbon
11 dioxide under Section 22.63.

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

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

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

10 (f) In making any determination pursuant to Section 9.1 of
11 this Act:

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

20 (2) The Agency shall adopt requirements as necessary
21 to implement public participation procedures, including,
22 but not limited to, public notice, comment, and an
23 opportunity for hearing, which must accompany the
24 processing of applications for PSD permits. The Agency
25 shall briefly describe and respond to all significant
26 comments on the draft permit raised during the public

1 comment period or during any hearing. The Agency may group
2 related comments together and provide one unified response
3 for each issue raised.

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

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

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

25 (h) A hazardous waste stream may not be deposited in a
26 permitted hazardous waste site unless specific authorization

1 is obtained from the Agency by the generator and disposal site
2 owner and operator for the deposit of that specific hazardous
3 waste stream. The Agency may grant specific authorization for
4 disposal of hazardous waste streams only after the generator
5 has reasonably demonstrated that, considering technological
6 feasibility and economic reasonableness, the hazardous waste
7 cannot be reasonably recycled for reuse, nor incinerated or
8 chemically, physically, or biologically treated so as to
9 neutralize the hazardous waste and render it nonhazardous. In
10 granting authorization under this Section, the Agency may
11 impose such conditions as may be necessary to accomplish the
12 purposes of the Act and are consistent with this Act and
13 regulations promulgated by the Board hereunder. If the Agency
14 refuses to grant authorization under this Section, the
15 applicant may appeal as if the Agency refused to grant a
16 permit, pursuant to the provisions of subsection (a) of
17 Section 40 of this Act. For purposes of this subsection (h),
18 the term "generator" has the meaning given in Section 3.205 of
19 this Act, unless: (1) the hazardous waste is treated,
20 incinerated, or partially recycled for reuse prior to
21 disposal, in which case the last person who treats,
22 incinerates, or partially recycles the hazardous waste prior
23 to disposal is the generator; or (2) the hazardous waste is
24 from a response action, in which case the person performing
25 the response action is the generator. This subsection (h) does
26 not apply to any hazardous waste that is restricted from land

1 disposal under 35 Ill. Adm. Code 728.

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

16 (1) repeated violations of federal, State, or local
17 laws, regulations, standards, or ordinances in the
18 operation of waste management facilities or sites, clean
19 construction or demolition debris fill operation
20 facilities or sites, or tire storage sites; or

21 (2) conviction in this or another State of any crime
22 which is a felony under the laws of this State, or
23 conviction of a felony in a federal court; or conviction
24 in this or another state or federal court of any of the
25 following crimes: forgery, official misconduct, bribery,
26 perjury, or knowingly submitting false information under

1 any environmental law, regulation, or permit term or
2 condition; or

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

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

24 (j) The issuance under this Act of a permit to engage in
25 the surface mining of any resources other than fossil fuels
26 shall not relieve the permittee from its duty to comply with

1 any applicable local law regulating the commencement,
2 location, or operation of surface mining facilities.

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

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

20 (m) The Agency may issue permits to persons owning or
21 operating a facility for composting landscape waste. In
22 granting such permits, the Agency may impose such conditions
23 as may be necessary to accomplish the purposes of this Act, and
24 as are not inconsistent with applicable regulations
25 promulgated by the Board. Except as otherwise provided in this
26 Act, a bond or other security shall not be required as a

1 condition for the issuance of a permit. If the Agency denies
2 any permit pursuant to this subsection, the Agency shall
3 transmit to the applicant within the time limitations of this
4 subsection specific, detailed statements as to the reasons the
5 permit application was denied. Such statements shall include
6 but not be limited to the following:

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

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

11 (3) the specific information, if any, the Agency deems
12 the applicant did not provide in its application to the
13 Agency; and

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

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

22 The Agency shall issue permits for such facilities upon
23 receipt of an application that includes a legal description of
24 the site, a topographic map of the site drawn to the scale of
25 200 feet to the inch or larger, a description of the operation,
26 including the area served, an estimate of the volume of

1 materials to be processed, and documentation that:

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

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

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

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

19 (5) the operation of the facility will include
20 appropriate dust and odor control measures, limitations on
21 operating hours, appropriate noise control measures for
22 shredding, chipping and similar equipment, management
23 procedures for composting, containment and disposal of
24 non-compostable wastes, procedures to be used for
25 terminating operations at the site, and recordkeeping
26 sufficient to document the amount of materials received,

1 composted, and otherwise disposed of; and

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

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

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

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

17 (o) (Blank).

18 (p) (1) Any person submitting an application for a permit
19 for a new MSWLF unit or for a lateral expansion under
20 subsection (t) of Section 21 of this Act for an existing MSWLF
21 unit that has not received and is not subject to local siting
22 approval under Section 39.2 of this Act shall publish notice
23 of the application in a newspaper of general circulation in
24 the county in which the MSWLF unit is or is proposed to be
25 located. The notice must be published at least 15 days before
26 submission of the permit application to the Agency. The notice

1 shall state the name and address of the applicant, the
2 location of the MSWLF unit or proposed MSWLF unit, the nature
3 and size of the MSWLF unit or proposed MSWLF unit, the nature
4 of the activity proposed, the probable life of the proposed
5 activity, the date the permit application will be submitted,
6 and a statement that persons may file written comments with
7 the Agency concerning the permit application within 30 days
8 after the filing of the permit application unless the time
9 period to submit comments is extended by the Agency.

10 When a permit applicant submits information to the Agency
11 to supplement a permit application being reviewed by the
12 Agency, the applicant shall not be required to reissue the
13 notice under this subsection.

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

18 (3) Each applicant for a permit described in part (1) of
19 this subsection shall file a copy of the permit application
20 with the county board or governing body of the municipality in
21 which the MSWLF unit is or is proposed to be located at the
22 same time the application is submitted to the Agency. The
23 permit application filed with the county board or governing
24 body of the municipality shall include all documents submitted
25 to or to be submitted to the Agency, except trade secrets as
26 determined under Section 7.1 of this Act. The permit

1 application and other documents on file with the county board
2 or governing body of the municipality shall be made available
3 for public inspection during regular business hours at the
4 office of the county board or the governing body of the
5 municipality and may be copied upon payment of the actual cost
6 of reproduction.

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

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

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

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

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

15 (A) the number of applications received for each
16 type of permit, the number of applications on which
17 the Agency has taken action, and the number of
18 applications still pending; and

19 (B) for those applications where the Agency has
20 not taken action in accordance with the timeframes set
21 forth in this Act, the date the application was
22 received and the reasons for any delays, which may
23 include, but shall not be limited to, (i) the
24 application being inadequate or incomplete, (ii)
25 scientific or technical disagreements with the
26 applicant, USEPA, or other local, state, or federal

1 agencies involved in the permitting approval process,
2 (iii) public opposition to the permit, or (iv) Agency
3 staffing shortages. To the extent practicable, the
4 tracking report shall provide approximate dates when
5 cause for delay was identified by the Agency, when the
6 Agency informed the applicant of the problem leading
7 to the delay, and when the applicant remedied the
8 reason for the delay.

9 (r) Upon the request of the applicant, the Agency shall
10 notify the applicant of the permit analyst assigned to the
11 application upon its receipt.

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

19 (t) Except as otherwise prohibited by federal law or
20 regulation, any person submitting an application for a permit
21 may include with the application suggested permit language for
22 Agency consideration. The Agency is not obligated to use the
23 suggested language or any portion thereof in its permitting
24 decision. If requested by the permit applicant, the Agency
25 shall meet with the applicant to discuss the suggested
26 language.

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

4 (v) If requested by the permit applicant, the Agency shall
5 provide the permit applicant with a copy of the final permit
6 prior to its issuance.

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

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

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

23 (z) If a mass animal mortality event is declared by the
24 Department of Agriculture in accordance with the Animal
25 Mortality Act:

26 (1) the owner or operator responsible for the disposal

1 of dead animals is exempted from the following:

2 (i) obtaining a permit for the construction,
3 installation, or operation of any type of facility or
4 equipment issued in accordance with subsection (a) of
5 this Section;

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

8 (iii) registering the disposal of dead animals as
9 an eligible small source with the Agency in accordance
10 with Section 9.14 of this Act;

11 (2) as applicable, the owner or operator responsible
12 for the disposal of dead animals is required to obtain the
13 following permits:

14 (i) an NPDES permit in accordance with subsection
15 (b) of this Section;

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

18 (iii) a lifetime State operating permit or a
19 federally enforceable State operating permit, in
20 accordance with subsection (a) of this Section; or

21 (iv) a CAAPP permit, in accordance with Section
22 39.5 of this Act.

23 All CCR surface impoundment permits shall contain those
24 terms and conditions, including, but not limited to, schedules
25 of compliance, which may be required to accomplish the
26 purposes and provisions of this Act, Board regulations, the

1 Illinois Groundwater Protection Act and regulations pursuant
2 thereto, and the Resource Conservation and Recovery Act and
3 regulations pursuant thereto, and may include schedules for
4 achieving compliance therewith as soon as possible.

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

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

19 The Agency shall issue a written statement concurrent with
20 its grant or denial of the permit explaining the basis for its
21 decision.

22 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
23 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

24 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

25 Sec. 40. Appeal of permit denial.

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

26 (2) Except as provided in paragraph (a)(3), if there is no

1 final action by the Board within 120 days after the date on
2 which it received the petition, the petitioner may deem the
3 permit issued under this Act, provided, however, that that
4 period of 120 days shall not run for any period of time, not to
5 exceed 30 days, during which the Board is without sufficient
6 membership to constitute the quorum required by subsection (a)
7 of Section 5 of this Act, and provided further that such 120
8 day period shall not be stayed for lack of quorum beyond 30
9 days regardless of whether the lack of quorum exists at the
10 beginning of such 120-day period or occurs during the running
11 of such 120-day period.

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

18 (b) If the Agency grants a RCRA permit for a hazardous
19 waste disposal site, a third party, other than the permit
20 applicant or Agency, may, within 35 days after the date on
21 which the Agency issued its decision, petition the Board for a
22 hearing to contest the issuance of the permit. Unless the
23 Board determines that such petition is duplicative or
24 frivolous, or that the petitioner is so located as to not be
25 affected by the permitted facility, the Board shall hear the
26 petition in accordance with the terms of subsection (a) of

1 this Section and its procedural rules governing denial
2 appeals, such hearing to be based exclusively on the record
3 before the Agency. The burden of proof shall be on the
4 petitioner. The Agency and the permit applicant shall be named
5 co-respondents.

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

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

26 (d) In reviewing the denial or any condition of a NA NSR

1 permit issued by the Agency pursuant to rules and regulations
2 adopted under subsection (c) of Section 9.1 of this Act, the
3 decision of the Board shall be based exclusively on the record
4 before the Agency including the record of the hearing, if any,
5 unless the parties agree to supplement the record. The Board
6 shall, if it finds the Agency is in error, make a final
7 determination as to the substantive limitations of the permit
8 including a final determination of Lowest Achievable Emission
9 Rate.

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

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

17 (A) a demonstration that the petitioner raised the
18 issues contained within the petition during the public
19 notice period or during the public hearing on the NPDES
20 permit application, if a public hearing was held; and

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

23 (3) If the Board determines that the petition is not
24 duplicative or frivolous and contains a satisfactory
25 demonstration under subdivision (2) of this subsection, the
26 Board shall hear the petition (i) in accordance with the terms

1 of subsection (a) of this Section and its procedural rules
2 governing permit denial appeals and (ii) exclusively on the
3 basis of the record before the Agency. The burden of proof
4 shall be on the petitioner. The Agency and permit applicant
5 shall be named co-respondents.

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

8 (g) If the Agency grants or denies a permit under
9 subsection (y) of Section 39, a third party, other than the
10 permit applicant or Agency, may appeal the Agency's decision
11 as provided under federal law for CCR surface impoundment
12 permits.

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

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

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

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.".