



LRB103 05989 LNS 74086 a

AMENDMENT TO SENATE BILL 1289

AMENDMENT NO. _____. Amend Senate Bill 1289, AS AMENDED,
by replacing everything after the enacting clause with the
following:

"Section 1. Short title; references to Act.

(a) This Act may be cited as the Safety and Aid for the
Environment in Carbon Capture and Sequestration Act.

(b) This Act may be referred to as the SAFE CCS Act.

Section 5. Definitions. As used in this Act:

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

"Nonconsenting pore space owner" means a titleholder, as
identified in the deed, of any surface estate that overlies

1 pore space proposed to be used for sequestration of carbon
2 dioxide, who does not consent to the use of their pore space
3 for the sequestration of carbon dioxide.

4 "Pore space" means the portion of geologic media that
5 contains gas or fluid, including, but not limited to, oil or
6 water, and that can be used to store carbon dioxide. "Pore
7 space" also includes solution-mined cavities.

8 "Pore space owner" means the person who has title to a pore
9 space.

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

20 Section 10. Ownership and conveyance of pore space.

21 (a) Title to pore space belongs to and is vested in the
22 surface owner of the surface estate.

23 (b) A conveyance of title to a surface estate conveys
24 title to the pore space in all strata underlying the surface
25 estate.

1 (c) Title to pore space may not be severed from title to
2 the surface estate. A grant of easement or lease for use of
3 pore space is not a severance prohibited under this
4 subsection.

5 (d) A grant of easement or lease for use of pore space
6 shall not confer any right to enter upon or otherwise use the
7 surface of the land unless the grant of easement expressly so
8 provides that right.

9 (e) Any grant of easement for use of pore space or pore
10 space lease abstract shall be recorded in the same manner as
11 easements of real estate. If the holder of an easement or lease
12 of pore space withdraws or is denied a permit for
13 sequestration of carbon dioxide under Section 22.64 of the
14 Environmental Protection Act, including, but not limited to,
15 the disapproval of financial assurance under subsection (e) of
16 Section 22.64 of the Environmental Protection Act, the owner
17 of the surface estate shall have the right to have the title or
18 interest returned for any amounts paid to the holder of the
19 easement or lease.

20 (f) Nothing in this Section shall be construed to change
21 or alter the common law existing as of the effective date of
22 this Act as it relates to the rights belonging to, or the
23 dominance of, the mineral estate.

24 Section 15. Integration and unitization of ownership
25 interests.

1 (a) If at least 2 pore space owners own pore space located
2 within a proposed sequestration facility, the owners may agree
3 to integrate the owners' interests to develop the pore space
4 as a proposed sequestration facility for the underground
5 sequestration of carbon dioxide.

6 (b) If all of the pore space owners within a proposed or
7 permitted sequestration facility do not agree to integrate the
8 pore space owners' interests, the sequestration operator may
9 petition the Department of Natural Resources to issue an order
10 requiring the pore space owners to integrate their interests
11 and authorizing the sequestration operator or sequestration
12 facility permit holder to develop and use the integrated pore
13 space as a sequestration facility for carbon sequestration.
14 Such an order for unitization and integration of pore space
15 may only be issued if the sequestration operator has obtained
16 the rights from pore space owners of pore space underlying at
17 least 75% of the surface area above the proposed sequestration
18 facility. The petition shall include, but is not limited to:

19 (1) the name and address of the petitioners;

20 (2) the property index numbers or legal descriptions
21 for the parcels of property and a geologic description of
22 the pore space within the proposed or permitted
23 sequestration facility;

24 (3) a disclosure of any parcels of property overlying
25 the pore space to be integrated, identified by property
26 index numbers or legal descriptions, in which the

1 applicant, any of its owners, officers, corporate
2 subsidiaries, or parents, sister companies, or affiliates,
3 at the time of submission of the application or within 10
4 years prior to the submission of the application, have or
5 had any real or personal interest, whether direct or
6 indirect;

7 (4) the names and addresses of all pore space owners
8 owning property within the proposed or permitted
9 sequestration facility as disclosed by the records of the
10 office of the recorder for the county or counties in which
11 the proposed or permitted sequestration facility is
12 situated and a list of consenting and nonconsenting pore
13 space owners, as well as a list of all properties for which
14 a pore space owner is unknown or nonlocatable;

15 (5) a statement that the petitioner has exercised due
16 diligence to locate each pore space owner and to seek an
17 agreement with each for pore space rights for the
18 sequestration facility, including a description of the
19 good faith efforts taken to identify, contact, and
20 negotiate with each nonconsenting pore space owner;

21 (6) a statement of the type of operations for the
22 proposed or permitted sequestration facility;

23 (7) a plan for determining the quantity of pore space
24 sequestration capacity to be assigned to each separately
25 owned parcel of property based on the surface area acreage
26 overlying the proposed or permitted sequestration facility

1 and for using the surface for Class VI well permit
2 required activities under Section 35;

3 (8) the method by which pore space owners will be
4 compensated for use of the pore space, and a copy of all
5 agreements entered into with consenting pore space owners
6 regarding the compensation paid to a consenting pore space
7 owner;

8 (9) the method by which nonconsenting pore space
9 owners will receive just compensation; and

10 (10) a nonrefundable application fee of \$250,000.

11 The application fee shall be deposited into the Oil and
12 Gas Resource Management Fund for the Department of Natural
13 Resources' costs related to administration of this Act.

14 (c) If the petition for a unitization order concerns
15 unknown or nonlocatable pore space owners, the applicant shall
16 provide public notice once a week for 2 consecutive weeks in
17 the newspaper of the largest circulation in each county in
18 which the proposed sequestration facility is located within 30
19 days prior to submission of the petition for a unitization and
20 integration order. The petitioner shall file proof of such
21 notice with the Department of Natural Resources with the
22 petition. The petitioner shall also provide public notice of
23 the public hearing described in subsection (d) in the same
24 manner within 30 days prior to the hearing on the petition for
25 a unitization order. The petitioner shall also send notice of
26 the filing of the petition and the notice of the public hearing

1 via certified mail to the last known address of each
2 nonlocatable pore space owner and provide copies of those
3 notices to the Department of Natural Resources. The notice
4 shall:

5 (1) state that a petition for a unitization and
6 integration order has been filed with the Department of
7 Natural Resources;

8 (2) describe the formation or formations and pore
9 space proposed to be unitized;

10 (3) in the case of an unknown pore space owner,
11 indicate the name of the last known pore space owner;

12 (4) in the case of a nonlocatable pore space owner,
13 identify the pore space owner and the owner's last known
14 address; and

15 (5) state that any person claiming an interest in the
16 properties proposed to be unitized should notify the
17 operator of the proposed sequestration facility at the
18 published address within 20 days of the publication date.

19 Unknown or nonlocatable pore space owners that have not
20 claimed an interest by the time of the Department of Natural
21 Resources' public notice in subsection (d) shall be deemed to
22 have consented to unitization and integration of their pore
23 space.

24 (d) Prior to issuing an order to unitize and integrate
25 pore space, the Department of Natural Resources shall issue a
26 public notice of the petition and shall hold a public hearing

1 on the petition. The public notice shall include copies of the
2 petition and all included attachments that are not protected
3 under the Freedom of Information Act. The public notice shall
4 include an opportunity for public comments and shall contain
5 the date, time, and location of the public hearing as decided
6 by the Department. At the public hearing, the Department shall
7 allow interested persons to present views and comments on the
8 petition. The hearings must be open to the public and recorded
9 by stenographic or mechanical means. The Department of Natural
10 Resources will make available on its website copies of all
11 comments received.

12 (e) The Department of Natural Resources shall issue an
13 order unitizing and integrating pore space under subsection
14 (b) within 60 days after the hearing upon a showing that:

15 (1) the petitioner has obtained a Class VI well permit
16 or, if the well permit application is still pending at
17 least one year from the date the petition has been filed,
18 that the petitioner has received a Finding of
19 Administrative Completeness from the United States
20 Environmental Protection Agency;

21 (2) the petitioner has made a good faith effort to
22 seek an agreement with all pore space owners located
23 within the proposed or permitted sequestration facility;

24 (3) the petitioner has obtained the rights from pore
25 space owners of at least 75% of the surface area above the
26 proposed sequestration facility; and

1 (4) all nonconsenting pore space owners have received
2 or will receive just compensation for use of the pore
3 space and use of the surface for Class VI well permit
4 required activities. Such compensation shall be no less
5 than the average total payment package, considered as a
6 whole with respect to an individual owner, provided in
7 agreements during the previous 365 days to similarly
8 situated consenting pore space owners. Such compensation
9 shall exclude any incentives provided to consenting pore
10 space owners prior to the initiation of injection. Such
11 compensation shall include any operations term or
12 injection term payments made upon or after the initiation
13 of injection provided to consenting pore space owners in
14 consideration of allowing use of their pore space for
15 sequestration of carbon dioxide. In determining if pore
16 space owners are similarly situated, the Department of
17 Natural Resources shall take into account: the size,
18 location, and proximity of the pore space; the geologic
19 characteristics of the pore space; the restrictions on the
20 use of the surface; the actual use of the surface; the
21 relevant law applicable at the time the consenting pore
22 space agreement was signed; title defects and title
23 warranties; the proximity of the pore space owners'
24 property to any carbon sequestration infrastructure on the
25 surface; whether the injection interferes with any known
26 mineral rights; and the fair market value of pore space

1 when entering into a commercial contract. When evaluating
2 the compensation provided to a similarly situated pore
3 space owner, the Department of Natural Resources shall
4 exclude any compensation provided to a pore space owner of
5 a property identified by the applicant in paragraph (3) of
6 subsection (b) and any compensation that was not provided
7 as part of an arm's length transaction.

8 Unknown or nonlocatable pore space owners shall also
9 receive just compensation in the same manner as provided
10 to the other nonconsenting pore space owners that must be
11 held in a separate escrow account for 20 years for future
12 payment to the previously unknown or nonlocatable pore
13 space owner upon discovery of that owner. After 20 years,
14 the compensation shall be transferred to the State
15 Treasurer under the Revised Uniform Unclaimed Property
16 Act.

17 (f) The Department of Natural Resources' order for
18 unitization and integration of pore space under this Section
19 is not effective until the petitioner has been issued a Class
20 VI well permit from the United States Environmental Protection
21 Agency and the carbon sequestration permit from the Illinois
22 Environmental Protection Agency.

23 (g) An order for integration and unitization under this
24 Section shall: provide for the unitization of the pore space
25 identified in the petition; authorize the integration of pore
26 space of nonconsenting pore space owners in the pore space

1 identified; provide for who may unitize the pore space to
2 establish a sequestration facility to be permitted by the
3 Illinois Environmental Protection Agency; and make provision
4 for payment of just compensation to nonconsenting pore space
5 owner under the integration order.

6 (h) A petitioner shall provide a copy of any order for
7 unitization and integration of pore space to the Illinois
8 Environmental Protection Agency.

9 (i) If groundwater monitoring required by a Class VI
10 permit indicates that the source of drinking water has been
11 rendered unsafe to drink or to provide to livestock, the
12 sequestration operator shall provide an alternate supply of
13 potable drinking water within 24 hours of the monitoring
14 results becoming available and an alternate supply of water
15 that is safe for other uses necessary within 30 days of the
16 monitoring results becoming available. The alternate supplies
17 of both potable water and water that is safe for other uses
18 shall continue until additional monitoring by the
19 sequestration operator shows that the water is safe for
20 drinking and other uses.

21 (j) After an order for unitization and integration of pore
22 space is issued, the petitioner shall request that the
23 Department of Natural Resources issue separate orders
24 establishing the amount of just compensation to be provided to
25 each nonconsenting pore space owner. When submitting this
26 request, the petitioner shall provide information

1 demonstrating the good faith efforts taken to negotiate an
2 agreement with the nonconsenting pore space owner, including,
3 but not limited to, the number and extent of the petitioner's
4 contacts with the pore space owner, whether the petitioner
5 explained the compensation offer to the pore space owner,
6 whether the compensation offer was comparable to similarly
7 situated pore space owners, what efforts were made to address
8 the pore space owner's concerns, and the likelihood that
9 further negotiations would be successful. All orders requiring
10 the provision of just compensation shall be made after notice
11 and hearing in which the Department of Natural Resources shall
12 determine the appropriate amount of just compensation to be
13 provided to each nonconsenting pore space owner as described
14 in this Section. The Department shall adopt reasonable rules
15 governing such hearings as may be necessary. In such a
16 hearing, the burden shall be on the petitioner to prove the
17 appropriate amount of just compensation consistent with this
18 Section. Both the petitioner and the pore space owner shall be
19 permitted to provide testimony and evidence regarding the
20 appropriateness of the amount of just compensation proposed by
21 the sequestration operator. An order by the Department of
22 Natural Resources establishing the appropriate amount of just
23 compensation to be provided to a nonconsenting pore space
24 owner shall be a final agency decision subject to judicial
25 review under the Administrative Review Law. Such proceedings
26 for judicial review may be commenced in the circuit court of

1 the county in which any part of the pore space is situated. The
2 Department of Natural Resources shall not be required to
3 certify any record to the court or file any answer in court or
4 otherwise appear in any court in a judicial review proceeding,
5 unless there is filed in the court with the complaint a receipt
6 from the Department of Natural Resources acknowledging payment
7 of the costs of furnishing and certifying the record. Failure
8 on the part of the plaintiff to file such receipt in court
9 shall be grounds for dismissal of the action.

10 Section 20. Surface access for pore space owners.

11 (a) If a sequestration operator must enter upon the
12 surface property of an affected pore space owner to comply
13 with Class VI well permit requirements or carbon sequestration
14 activity permit requirements for the purposes of monitoring a
15 sequestration facility or to respond to an emergency causing
16 immediate risk to human health, environmental resources, or
17 infrastructure, the sequestration operator must undertake such
18 activities in such a way as to minimize the impact to the
19 surface of the parcel of property and to ensure that the
20 following requirements are met:

21 (1) The required actions under the Class VI well
22 permit or carbon sequestration activity permit shall be
23 limited to surface monitoring activities, such as
24 geophysical surveys, but does not include the installation
25 of surface infrastructure except as provided in paragraphs

1 (2) and (3).

2 (2) Shallow groundwater monitoring wells shall be
3 allowed to be installed on such property only if the
4 carbon dioxide plume may have unexpectedly migrated and
5 the United States Environmental Protection Agency or the
6 Illinois Environmental Protection Agency requires
7 monitoring of groundwater for potential carbon dioxide
8 impact.

9 (3) Injection wells, deep monitoring wells, and
10 surface infrastructure other than shallow groundwater
11 monitoring wells as allowed by paragraph (2) will not be
12 located on the parcel of property of an affected pore
13 space owner without the express written consent of such
14 owner.

15 (b) Except in an emergency causing immediate risk to human
16 health, environmental resources, or infrastructure, a
17 sequestration operator shall not enter upon the surface
18 property for purposes of undertaking required activities under
19 a Class VI well permit or carbon sequestration permit of any
20 affected pore space owner until 30 days after providing
21 written notice to the affected pore space owner by registered
22 mail and after providing a second notice to the pore space
23 owner of record, as identified in the records of the relevant
24 county tax assessor, by telephone or email or by registered
25 mail in the event the property owner has not been notified by
26 other means, at least 3 days, but not more than 15 days, prior

1 to the stated date in the notice, identifying the date when
2 access will first begin on the owner's property and informing
3 the affected pore space owner that the owner or the owner's
4 agent may be present when the access occurs.

5 Section 25. Compensation for damages to the surface.

6 (a) An affected pore space owner is entitled to reasonable
7 compensation from the sequestration operator for damages
8 resulting from surface access to the affected pore space
9 owner's property for required activities taken under a Class
10 VI well permit or carbon sequestration activity permit,
11 including:

12 (1) compensation for damage to growing crops, trees,
13 shrubs, fences, roads, structures, improvements, personal
14 property, and livestock thereon and compensation for the
15 loss of the value of a commercial crop impacted by
16 required activities taken by a sequestration operator
17 under a Class VI well permit or carbon sequestration
18 activity permit; the value of the crop shall be calculated
19 based on local market price by:

20 (A) determining the average per acre yield for the
21 same crop on comparable adjacent acreage;

22 (B) determining the price received for the sale of
23 the same crop on comparable adjacent acreage;

24 (C) determining the acreage of the area impacted
25 by Class VI well permit activities and applying the

1 determined price; and

2 (D) the initial determination of the value of the
3 crop shall be determined by the affected pore space
4 owner and submitted to the sequestration operator;

5 (2) compensation to return the surface estate,
6 including soil conservation practices, such as terraces,
7 grassed waterways, and other conservation practices, to a
8 condition as near as practicable to the condition of the
9 surface prior to accessing the property;

10 (3) compensation for damage to the productive
11 capability of the soil resulting from compaction or
12 rutting, including, but not limited to, compensation for
13 when a sequestration operator accesses a property where
14 excessively wet soil conditions would not allow normal
15 farming operations due to increased risk of soil erosion,
16 rutting, or compaction; if there is a dispute between the
17 sequestration operator and the affected pore space owner
18 regarding the value of the damage to the productive
19 capability of the soil, the sequestration operator shall
20 consult with a representative of the soil and water
21 conservation district in the respective county where the
22 parcel of property is located for recommendations to
23 restore the productive capability of the soil; and

24 (4) compensation for damage to surface and subsurface
25 drainage, including, but not limited to:

26 (A) compensation in that the sequestration

1 operator shall perform immediate and temporary repairs
2 for damage that occurs to subsurface drainage tiles
3 that have water actively flowing through them at the
4 time of damage; and

5 (B) compensation such that the sequestration
6 operator shall compensate the affected pore space
7 owner to permanently restore drainage to a condition
8 as near as practicable to the condition of the
9 drainage prior to accessing the property.

10 (b) The compensation for damages required by subsection
11 (a) shall be paid in any manner mutually agreed upon by the
12 sequestration operator and the affected pore space owners.
13 Unless otherwise agreed, the sequestration operator shall
14 tender to the surface owner payment by check or draft in
15 accordance with this Section 45 no later than 60 days after
16 completing the required activities under a Class VI well
17 permit or carbon sequestration permit if the occurrence or
18 value of damages is not disputed. The pore space owner's
19 remedy for unpaid or disputed compensation shall be an action
20 for damages in any court of competent jurisdiction for the
21 parcel of property or the greater part thereof on which the
22 activities were conducted and shall be entitled to recover
23 reasonable damages and attorney's fees if the pore space owner
24 prevails.

25 Section 30. Additional landowner rights.

1 (a) Any carbon dioxide injection well or deep monitoring
2 well authorized by the United States Environmental Protection
3 Agency through a valid UIC Class VI permit must adhere to the
4 new well set back requirements of 62 Ill. Adm. Code
5 240.410(f).

6 (b) If there is a significant leak of carbon dioxide from
7 an injection well, monitoring well, or other point on the
8 surface, which is associated with carbon sequestration
9 activity, all landowners shall be entitled to medical
10 monitoring of a scope and duration to be determined by the
11 Department of Public Health at the expense of the carbon
12 dioxide sequestration facility operator.

13 (c) Prior to the commencement of carbon dioxide injection,
14 the sequestration operator shall inform, via certified mail,
15 each property owner overlying the carbon sequestration
16 facility of the opportunity to request from the sequestration
17 operator an accurate, well-functioning carbon dioxide monitor,
18 which the sequestration operator shall provide to the property
19 owner within 30 days of receiving a written request.

20 (d) If monitoring conducted pursuant to United States
21 Environmental Protection Agency or Illinois Environmental
22 Protection Agency requirements shows that carbon dioxide has
23 migrated into the pore space of a pore space owner not
24 previously included within an application or order integrating
25 pore space, the sequestration operator shall, within 14 days,
26 notify that pore space owner of the migration and of the

1 opportunity to petition the Department of Natural Resources
2 for inclusion in the integrated area. If the pore space owner
3 submits such a petition, the sequestration operator shall
4 provide to the Department of Natural Resources, for its
5 consideration of the petition, the monitoring information
6 showing the migration of the carbon dioxide into the pore
7 space of the pore space owner at issue. The Department of
8 Natural Resources shall grant such a petition if it determines
9 that stored carbon dioxide from a permitted sequestration
10 facility is physically present in the pore space owned by the
11 pore space owner. If the Department of Natural Resources
12 grants the petition for inclusion in the integrated area and
13 the pore space owner has not entered into an agreement with the
14 sequestration operator for use of the pore space, the pore
15 space owner shall be considered a nonconsenting pore space
16 owner entitled to just compensation.

17 Section 35. The Illinois Emergency Management Agency Act
18 is amended by changing Section 5 as follows:

19 (20 ILCS 3305/5) (from Ch. 127, par. 1055)

20 Sec. 5. Illinois Emergency Management Agency.

21 (a) There is created within the executive branch of the
22 State Government an Illinois Emergency Management Agency and a
23 Director of the Illinois Emergency Management Agency, herein
24 called the "Director" who shall be the head thereof. The

1 Director shall be appointed by the Governor, with the advice
2 and consent of the Senate, and shall serve for a term of 2
3 years beginning on the third Monday in January of the
4 odd-numbered year, and until a successor is appointed and has
5 qualified; except that the term of the first Director
6 appointed under this Act shall expire on the third Monday in
7 January, 1989. The Director shall not hold any other
8 remunerative public office. For terms beginning after January
9 18, 2019 (the effective date of Public Act 100-1179) and
10 before January 16, 2023, the annual salary of the Director
11 shall be as provided in Section 5-300 of the Civil
12 Administrative Code of Illinois. Notwithstanding any other
13 provision of law, for terms beginning on or after January 16,
14 2023, the Director shall receive an annual salary of \$180,000
15 or as set by the Governor, whichever is higher. On July 1,
16 2023, and on each July 1 thereafter, the Director shall
17 receive an increase in salary based on a cost of living
18 adjustment as authorized by Senate Joint Resolution 192 of the
19 86th General Assembly.

20 For terms beginning on or after January 16, 2023, the
21 Assistant Director of the Illinois Emergency Management Agency
22 shall receive an annual salary of \$156,600 or as set by the
23 Governor, whichever is higher. On July 1, 2023, and on each
24 July 1 thereafter, the Assistant Director shall receive an
25 increase in salary based on a cost of living adjustment as
26 authorized by Senate Joint Resolution 192 of the 86th General

1 Assembly.

2 (b) The Illinois Emergency Management Agency shall obtain,
3 under the provisions of the Personnel Code, technical,
4 clerical, stenographic and other administrative personnel, and
5 may make expenditures within the appropriation therefor as may
6 be necessary to carry out the purpose of this Act. The agency
7 created by this Act is intended to be a successor to the agency
8 created under the Illinois Emergency Services and Disaster
9 Agency Act of 1975 and the personnel, equipment, records, and
10 appropriations of that agency are transferred to the successor
11 agency as of June 30, 1988 (the effective date of this Act).

12 (c) The Director, subject to the direction and control of
13 the Governor, shall be the executive head of the Illinois
14 Emergency Management Agency and the State Emergency Response
15 Commission and shall be responsible under the direction of the
16 Governor, for carrying out the program for emergency
17 management of this State. The Director shall also maintain
18 liaison and cooperate with the emergency management
19 organizations of this State and other states and of the
20 federal government.

21 (d) The Illinois Emergency Management Agency shall take an
22 integral part in the development and revision of political
23 subdivision emergency operations plans prepared under
24 paragraph (f) of Section 10. To this end it shall employ or
25 otherwise secure the services of professional and technical
26 personnel capable of providing expert assistance to the

1 emergency services and disaster agencies. These personnel
2 shall consult with emergency services and disaster agencies on
3 a regular basis and shall make field examinations of the
4 areas, circumstances, and conditions that particular political
5 subdivision emergency operations plans are intended to apply.

6 (e) The Illinois Emergency Management Agency and political
7 subdivisions shall be encouraged to form an emergency
8 management advisory committee composed of private and public
9 personnel representing the emergency management phases of
10 mitigation, preparedness, response, and recovery. The Local
11 Emergency Planning Committee, as created under the Illinois
12 Emergency Planning and Community Right to Know Act, shall
13 serve as an advisory committee to the emergency services and
14 disaster agency or agencies serving within the boundaries of
15 that Local Emergency Planning Committee planning district for:

16 (1) the development of emergency operations plan
17 provisions for hazardous chemical emergencies; and

18 (2) the assessment of emergency response capabilities
19 related to hazardous chemical emergencies.

20 (f) The Illinois Emergency Management Agency shall:

21 (1) Coordinate the overall emergency management
22 program of the State.

23 (2) Cooperate with local governments, the federal
24 government, and any public or private agency or entity in
25 achieving any purpose of this Act and in implementing
26 emergency management programs for mitigation,

1 preparedness, response, and recovery.

2 (2.5) Develop a comprehensive emergency preparedness
3 and response plan for any nuclear accident in accordance
4 with Section 65 of the Nuclear Safety Law of 2004 and in
5 development of the Illinois Nuclear Safety Preparedness
6 program in accordance with Section 8 of the Illinois
7 Nuclear Safety Preparedness Act.

8 (2.6) Coordinate with the Department of Public Health
9 with respect to planning for and responding to public
10 health emergencies.

11 (3) Prepare, for issuance by the Governor, executive
12 orders, proclamations, and regulations as necessary or
13 appropriate in coping with disasters.

14 (4) Promulgate rules and requirements for political
15 subdivision emergency operations plans that are not
16 inconsistent with and are at least as stringent as
17 applicable federal laws and regulations.

18 (5) Review and approve, in accordance with Illinois
19 Emergency Management Agency rules, emergency operations
20 plans for those political subdivisions required to have an
21 emergency services and disaster agency pursuant to this
22 Act.

23 (5.5) Promulgate rules and requirements for the
24 political subdivision emergency management exercises,
25 including, but not limited to, exercises of the emergency
26 operations plans.

1 (5.10) Review, evaluate, and approve, in accordance
2 with Illinois Emergency Management Agency rules, political
3 subdivision emergency management exercises for those
4 political subdivisions required to have an emergency
5 services and disaster agency pursuant to this Act.

6 (6) Determine requirements of the State and its
7 political subdivisions for food, clothing, and other
8 necessities in event of a disaster.

9 (7) Establish a register of persons with types of
10 emergency management training and skills in mitigation,
11 preparedness, response, and recovery.

12 (8) Establish a register of government and private
13 response resources available for use in a disaster.

14 (9) Expand the Earthquake Awareness Program and its
15 efforts to distribute earthquake preparedness materials to
16 schools, political subdivisions, community groups, civic
17 organizations, and the media. Emphasis will be placed on
18 those areas of the State most at risk from an earthquake.
19 Maintain the list of all school districts, hospitals,
20 airports, power plants, including nuclear power plants,
21 lakes, dams, emergency response facilities of all types,
22 and all other major public or private structures which are
23 at the greatest risk of damage from earthquakes under
24 circumstances where the damage would cause subsequent harm
25 to the surrounding communities and residents.

26 (10) Disseminate all information, completely and

1 without delay, on water levels for rivers and streams and
2 any other data pertaining to potential flooding supplied
3 by the Division of Water Resources within the Department
4 of Natural Resources to all political subdivisions to the
5 maximum extent possible.

6 (11) Develop agreements, if feasible, with medical
7 supply and equipment firms to supply resources as are
8 necessary to respond to an earthquake or any other
9 disaster as defined in this Act. These resources will be
10 made available upon notifying the vendor of the disaster.
11 Payment for the resources will be in accordance with
12 Section 7 of this Act. The Illinois Department of Public
13 Health shall determine which resources will be required
14 and requested.

15 (11.5) In coordination with the Illinois State Police,
16 develop and implement a community outreach program to
17 promote awareness among the State's parents and children
18 of child abduction prevention and response.

19 (12) Out of funds appropriated for these purposes,
20 award capital and non-capital grants to Illinois hospitals
21 or health care facilities located outside of a city with a
22 population in excess of 1,000,000 to be used for purposes
23 that include, but are not limited to, preparing to respond
24 to mass casualties and disasters, maintaining and
25 improving patient safety and quality of care, and
26 protecting the confidentiality of patient information. No

1 single grant for a capital expenditure shall exceed
2 \$300,000. No single grant for a non-capital expenditure
3 shall exceed \$100,000. In awarding such grants, preference
4 shall be given to hospitals that serve a significant
5 number of Medicaid recipients, but do not qualify for
6 disproportionate share hospital adjustment payments under
7 the Illinois Public Aid Code. To receive such a grant, a
8 hospital or health care facility must provide funding of
9 at least 50% of the cost of the project for which the grant
10 is being requested. In awarding such grants the Illinois
11 Emergency Management Agency shall consider the
12 recommendations of the Illinois Hospital Association.

13 (13) Do all other things necessary, incidental or
14 appropriate for the implementation of this Act.

15 (g) The Illinois Emergency Management Agency is authorized
16 to make grants to various higher education institutions,
17 public K-12 school districts, area vocational centers as
18 designated by the State Board of Education, inter-district
19 special education cooperatives, regional safe schools, and
20 nonpublic K-12 schools for safety and security improvements.
21 For the purpose of this subsection (g), "higher education
22 institution" means a public university, a public community
23 college, or an independent, not-for-profit or for-profit
24 higher education institution located in this State. Grants
25 made under this subsection (g) shall be paid out of moneys
26 appropriated for that purpose from the Build Illinois Bond

1 Fund. The Illinois Emergency Management Agency shall adopt
2 rules to implement this subsection (g). These rules may
3 specify: (i) the manner of applying for grants; (ii) project
4 eligibility requirements; (iii) restrictions on the use of
5 grant moneys; (iv) the manner in which the various higher
6 education institutions must account for the use of grant
7 moneys; and (v) any other provision that the Illinois
8 Emergency Management Agency determines to be necessary or
9 useful for the administration of this subsection (g).

10 (g-5) The Illinois Emergency Management Agency is
11 authorized to make grants to not-for-profit organizations
12 which are exempt from federal income taxation under section
13 501(c)(3) of the Federal Internal Revenue Code for eligible
14 security improvements that assist the organization in
15 preventing, preparing for, or responding to threats, attacks,
16 or acts of terrorism. To be eligible for a grant under the
17 program, the Agency must determine that the organization is at
18 a high risk of being subject to threats, attacks, or acts of
19 terrorism based on the organization's profile, ideology,
20 mission, or beliefs. Eligible security improvements shall
21 include all eligible preparedness activities under the federal
22 Nonprofit Security Grant Program, including, but not limited
23 to, physical security upgrades, security training exercises,
24 preparedness training exercises, contracting with security
25 personnel, and any other security upgrades deemed eligible by
26 the Director. Eligible security improvements shall not

1 duplicate, in part or in whole, a project included under any
2 awarded federal grant or in a pending federal application. The
3 Director shall establish procedures and forms by which
4 applicants may apply for a grant and procedures for
5 distributing grants to recipients. Any security improvements
6 awarded shall remain at the physical property listed in the
7 grant application, unless authorized by Agency rule or
8 approved by the Agency in writing. The procedures shall
9 require each applicant to do the following:

10 (1) identify and substantiate prior or current
11 threats, attacks, or acts of terrorism against the
12 not-for-profit organization;

13 (2) indicate the symbolic or strategic value of one or
14 more sites that renders the site a possible target of a
15 threat, attack, or act of terrorism;

16 (3) discuss potential consequences to the organization
17 if the site is damaged, destroyed, or disrupted by a
18 threat, attack, or act of terrorism;

19 (4) describe how the grant will be used to integrate
20 organizational preparedness with broader State and local
21 preparedness efforts, as described by the Agency in each
22 Notice of Opportunity for Funding;

23 (5) submit (i) a vulnerability assessment conducted by
24 experienced security, law enforcement, or military
25 personnel, or conducted using an Agency-approved or
26 federal Nonprofit Security Grant Program self-assessment

1 tool, and (ii) a description of how the grant award will be
2 used to address the vulnerabilities identified in the
3 assessment; and

4 (6) submit any other relevant information as may be
5 required by the Director.

6 The Agency is authorized to use funds appropriated for the
7 grant program described in this subsection (g-5) to administer
8 the program. Any Agency Notice of Opportunity for Funding,
9 proposed or final rulemaking, guidance, training opportunity,
10 or other resource related to the grant program must be
11 published on the Agency's publicly available website, and any
12 announcements related to funding shall be shared with all
13 State legislative offices, the Governor's office, emergency
14 services and disaster agencies mandated or required pursuant
15 to subsections (b) through (d) of Section 10, and any other
16 State agencies as determined by the Agency. Subject to
17 appropriation, the grant application period shall be open for
18 no less than 45 calendar days during the first application
19 cycle each fiscal year, unless the Agency determines that a
20 shorter period is necessary to avoid conflicts with the annual
21 federal Nonprofit Security Grant Program funding cycle.
22 Additional application cycles may be conducted during the same
23 fiscal year, subject to availability of funds. Upon request,
24 Agency staff shall provide reasonable assistance to any
25 applicant in completing a grant application or meeting a
26 post-award requirement.

1 (h) Except as provided in Section 17.5 of this Act, any
2 moneys received by the Agency from donations or sponsorships
3 unrelated to a disaster shall be deposited in the Emergency
4 Planning and Training Fund and used by the Agency, subject to
5 appropriation, to effectuate planning and training activities.
6 Any moneys received by the Agency from donations during a
7 disaster and intended for disaster response or recovery shall
8 be deposited into the Disaster Response and Recovery Fund and
9 used for disaster response and recovery pursuant to the
10 Disaster Relief Act.

11 (i) The Illinois Emergency Management Agency may by rule
12 assess and collect reasonable fees for attendance at
13 Agency-sponsored conferences to enable the Agency to carry out
14 the requirements of this Act. Any moneys received under this
15 subsection shall be deposited in the Emergency Planning and
16 Training Fund and used by the Agency, subject to
17 appropriation, for planning and training activities.

18 (j) The Illinois Emergency Management Agency is authorized
19 to make grants to other State agencies, public universities,
20 units of local government, and statewide mutual aid
21 organizations to enhance statewide emergency preparedness and
22 response.

23 (k) Subject to appropriation from the Emergency Planning
24 and Training Fund, the Illinois Emergency Management Agency
25 and Office of Homeland Security shall obtain training services
26 and support for local emergency services and support for local

1 emergency services and disaster agencies for training,
2 exercises, and equipment related to carbon dioxide pipelines
3 and sequestration, and, subject to the availability of
4 funding, shall provide \$5,000 per year to the Illinois Fire
5 Institute for first responder training required under Section
6 4-615 of the Public Utilities Act. Amounts in the Emergency
7 Planning and Training Fund will be used by the Illinois
8 Emergency Management Agency and Office of Homeland Security
9 for administrative costs incurred in carrying out the
10 requirements of this subsection. To carry out the purposes of
11 this subsection, the Illinois Emergency Management Agency and
12 Office of Homeland Security may accept moneys from all
13 authorized sources into the Emergency Planning and Training
14 Fund, including, but not limited to, transfers from the Carbon
15 Dioxide Sequestration Administrative Fund and the Public
16 Utility Fund.

17 (Source: P.A. 102-16, eff. 6-17-21; 102-538, eff. 8-20-21;
18 102-813, eff. 5-13-22; 102-1115, eff. 1-9-23; 103-418, eff.
19 1-1-24.)

20 Section 40. The State Finance Act is amended by adding
21 Sections 5.1015, 5.1016, 5.1017, and 5.1018 as follows:

22 (30 ILCS 105/5.1015 new)

23 Sec. 5.1015. The Carbon Dioxide Sequestration
24 Administrative Fund.

(30 ILCS 105/5.1016 new)

Sec. 5.1016. The Environmental Justice Grant Fund.

(30 ILCS 105/5.1017 new)

Sec. 5.1017. The Water Resources Fund.

(30 ILCS 105/5.1018 new)

Sec. 5.1018. The Carbon Dioxide Sequestration Long-Term Trust Fund

Section 45. The Public Utilities Act is amended by changing Section 8-509 and by adding Sections 3-127, 4-615, and 15-103 as follows:

(220 ILCS 5/3-127 new)

Sec. 3-127. Carbon dioxide pipeline. "Carbon dioxide pipeline" has the same meaning given to that term in Section 10 of the Carbon Dioxide Transportation and Sequestration Act.

(220 ILCS 5/4-615 new)

Sec. 4-615. Training for carbon dioxide emergencies.

(a) Prior to any pipeline for the transportation of carbon dioxide becoming operational, the Illinois Fire Service Institute, in coordination with the Office of the State Fire Marshal, an EMS System, the Department of Public Health, and

1 the Illinois Emergency Management Agency and Office of
2 Homeland Security, shall develop and offer at least one course
3 for first responders who respond when carbon dioxide is
4 released from a pipeline or a sequestration facility. At a
5 minimum, the course shall cover:

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

7 (2) communications procedures to quickly share
8 information about a carbon dioxide release, including
9 alarms, sirens, text message alerts, and other means of
10 alerting the public;

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

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

17 (b) Each year thereafter, the Illinois Fire Service
18 Institute, in coordination with the Office of the State Fire
19 Marshal, an EMS System and the Department of Public Health,
20 shall offer a training session at the Illinois Fire Service
21 Institute's Regions for Training Delivery on emergency
22 response procedures during carbon dioxide releases. These
23 trainings shall be available to first responders in the State
24 with priority participation given to counties in which carbon
25 dioxide is proposed to be or is transported or sequestered.

26 (c) Prior to a carbon dioxide pipeline becoming

1 operational, the owner or operator of the pipeline shall
2 develop, in coordination with the Illinois Emergency
3 Management Agency and Office of Homeland Security and
4 Department of Public Health, emergency preparedness materials
5 for residents and local businesses in the counties within 2
6 miles of where the owner or operator is transporting or
7 sequestering carbon dioxide. At a minimum, these materials
8 shall include:

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

11 (2) symptoms of exposure to a carbon dioxide release;
12 and

13 (3) recommendations for items residents and local
14 businesses may want to acquire, including, but not limited
15 to, carbon dioxide monitors and air supply respirators.

16 The Illinois Emergency Management Agency and Office of
17 Homeland Security and the Department of Public Health shall
18 publish this information on their websites and provide these
19 materials to local emergency management agencies and local
20 public health departments in relevant counties.

21 (d) For each carbon dioxide pipeline, the owner or
22 operator of the pipeline shall use modeling that can handle
23 non-flat terrain, obstacles, such as negations and buildings,
24 time or spatial variations in wind, including direction and
25 speed, and ambient weather conditions, such as temperature and
26 humidity, variations to the direction of release of CO₂,

1 concentrations and durations of CO₂, in addition to the
2 specifics related to the pipeline design, including, but not
3 limited to, diameter, thickness, and shutoff valves, to
4 develop a risk-based assessment and a chemical safety
5 contingency plan. The Illinois Emergency Management Agency and
6 Office of Homeland Security shall publish this information on
7 its website and provide these materials to local emergency
8 management agencies in relevant counties.

9 (e) Each year, the owner or operator of a pipeline, in
10 coordination with Department of Public Health and local
11 emergency response personnel, shall offer at least 2 public
12 training sessions for residents and local businesses in every
13 county in which carbon dioxide is transported or sequestered.
14 These trainings shall be offered in person and virtually. Each
15 training shall be recorded and provided to Illinois Emergency
16 Management Agency and Office of Homeland Security and the
17 Department of Public Health to maintain a copy on their
18 websites, as appropriate, with the emergency preparedness
19 materials identified in subsection (c).

20 (f) Each year, the owner or operator of the pipeline shall
21 develop, in coordination with the Department of Public Health,
22 and offer a training session for medical personnel in each
23 county along the pipeline route, including staff in hospitals
24 and emergency rooms, health clinics, and other health care
25 facilities. These trainings shall be offered in person and
26 virtually and be approved by the Department of Public Health.

1 Each training shall be recorded and provided to the Department
2 of Public Health to maintain a copy on its website, as
3 appropriate, and distribute to staff in hospitals and
4 emergency rooms, health clinics, and other health care
5 facilities.

6 (g) At least every 5 years, the Illinois Fire Service
7 Institute shall review and, if appropriate, revise or add
8 trainings developed under this Section to incorporate new best
9 practices, technologies, developments, or information that
10 improves emergency response and treatment for carbon dioxide
11 releases.

12 (h) At least every 5 years, the owner or operator, in
13 coordination with local emergency response personnel, the
14 Illinois Emergency Management Agency and Office of Homeland
15 Security, and the Department of Public Health, shall review
16 and, if appropriate, update emergency preparedness materials
17 and trainings for residents and local businesses identified in
18 subsections (c) and (d) to incorporate new best practices,
19 technologies, developments, or information that may assist
20 local residents and businesses to be prepared if a carbon
21 dioxide release occurs.

22 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

23 Sec. 8-509. When necessary for the construction of any
24 alterations, additions, extensions or improvements ordered or
25 authorized under Section 8-406.1 or 8-503 of this Act, any

1 public utility may enter upon, take or damage private property
2 in the manner provided for by the law of eminent domain. If a
3 public utility seeks relief under this Section in the same
4 proceeding in which it seeks a certificate of public
5 convenience and necessity under Section 8-406.1 of this Act,
6 the Commission shall enter its order under this Section either
7 as part of the Section 8-406.1 order or at the same time it
8 enters the Section 8-406.1 order. If a public utility seeks
9 relief under this Section after the Commission enters its
10 order in the Section 8-406.1 proceeding, the Commission shall
11 issue its order under this Section within 45 days after the
12 utility files its petition under this Section.

13 This Section applies to the exercise of eminent domain
14 powers by telephone companies or telecommunications carriers
15 only when the facilities to be constructed are intended to be
16 used in whole or in part for providing one or more intrastate
17 telecommunications services classified as "noncompetitive"
18 under Section 13-502 in a tariff filed by the condemnor. The
19 exercise of eminent domain powers by telephone companies or
20 telecommunications carriers in all other cases shall be
21 governed solely by "An Act relating to the powers, duties and
22 property of telephone companies", approved May 16, 1903, as
23 now or hereafter amended.

24 This Section applies to the exercise of eminent domain
25 powers by an owner or operator of a pipeline designed,
26 constructed, and operated to transport and to sequester carbon

1 dioxide to which the Commission has granted a certificate
2 under Section 20 of the Carbon Dioxide Transportation and
3 Sequestration Act and may seek eminent domain authority from
4 the Commission under this Section. If the applicant of such a
5 certificate of authority for a new carbon dioxide pipeline
6 seeks relief under this Section in the same proceeding in
7 which it seeks a certificate of authority for a new carbon
8 dioxide pipeline under Section 20 of the Carbon Dioxide
9 Transportation and Sequestration Act, the Commission shall
10 enter its order under this Section either as part of or at the
11 same time as its order under the Carbon Dioxide Transportation
12 and Sequestration Act. Notwithstanding anything to the
13 contrary in this Section, the owner or operator of such a
14 pipeline shall not be considered to be a public utility for any
15 other provisions of this Act.

16 (Source: P.A. 100-840, eff. 8-13-18.)

17 (220 ILCS 5/15-103 new)

18 Sec. 15-103. Application of carbon dioxide pipelines. This
19 Article does not apply to a new carbon dioxide pipeline as
20 defined in Section 10 of the Carbon Dioxide Transportation and
21 Sequestration Act.

22 Section 50. The Carbon Dioxide Transportation and
23 Sequestration Act is amended by changing Sections 5, 10, 15,
24 and 20 and by adding Sections 35 and 40 as follows:

(220 ILCS 75/5)

Sec. 5. Legislative purpose. Pipeline transportation of carbon dioxide for sequestration, ~~enhanced oil recovery,~~ and other carbon management purposes other than enhanced oil recovery is declared to be a public use and service, in the public interest, and a benefit to the welfare of Illinois and the people of Illinois because pipeline transportation is necessary for sequestration, ~~enhanced oil recovery,~~ or other carbon management purposes other than enhanced oil recovery and thus is an essential component to compliance with required or voluntary plans to reduce carbon dioxide emissions ~~from "clean coal" facilities and other sources.~~ Carbon dioxide pipelines are critical to ~~the promotion and use of Illinois coal and also~~ advance economic development, environmental protection, and energy security in the State.

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

(220 ILCS 75/10)

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

"Carbon dioxide pipeline" or "pipeline" means the in-state portion of a pipeline, including appurtenant facilities, property rights, and easements, that are used exclusively for the purpose of transporting carbon dioxide to a point of sale, storage, ~~enhanced oil recovery,~~ or other carbon management application. "Carbon dioxide pipeline" or "pipeline" does not

1 include the portion of pipelines sold or used for enhanced oil
2 recovery in this State.

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

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

7 "Commission" means the Illinois Commerce Commission.

8 "Legacy carbon dioxide pipeline" includes any carbon
9 dioxide pipeline constructed and used to transport carbon
10 dioxide before July 1, 2024 that is less than one mile in
11 length, is located on property entirely owned by the pipeline
12 operator, and is used to transport carbon dioxide to an
13 injection well.

14 "New carbon dioxide pipeline" means any carbon dioxide
15 pipeline constructed after July 1, 2024.

16 "Sequester" has the meaning ascribed to that term in
17 Section 1-10 of the Illinois Power Agency Act. "Sequester"
18 does not include the permanent storage of carbon dioxide by
19 injecting it through an enhanced oil recovery process.

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

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

24 (220 ILCS 75/15)

25 Sec. 15. Scope. This Act applies to the application

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

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

8 (220 ILCS 75/20)

9 Sec. 20. Application.

10 (a) No person or entity may construct, operate, or repair
11 a carbon dioxide pipeline unless the person or entity
12 possesses a certificate of authority. Nothing in this Act
13 requires a legacy carbon dioxide pipeline to obtain a
14 certificate of authority.

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

19 (1) the application was properly filed;

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

24 (3) the applicant has entered into one or more
25 agreements ~~an agreement~~ with a ~~clean coal facility, a~~

1 ~~clean coal SNG facility, or any other~~ source or sources
2 that will result in the reduction of carbon dioxide
3 emissions from that source or sources and the applicant
4 has filed such agreement or agreements as part of its
5 application;

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

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

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

19 (6.1) the applicant has applied for any and all other
20 federal permits necessary to construct and operate a
21 carbon dioxide pipeline;

22 (6.2) the applicant has held at least 2 prefiling
23 public meetings to receive public comment concerning the
24 proposed carbon dioxide pipeline in each county where the
25 pipeline is to be located, no earlier than 6 months prior
26 to the filing of the application. Notice of the public

1 meeting shall be published in a newspaper of general
2 circulation within the affected county once a week for 3
3 consecutive weeks, beginning no earlier than one month
4 prior to the first public meeting. Notice of the public
5 meeting, including a description of the carbon dioxide
6 pipeline, must be provided in writing to the clerk of each
7 county where the project is to be located and to the chief
8 clerk of the Commission. A representative of the
9 Commission shall be invited to each prefiling public
10 meeting. The applicant shall maintain a dedicated public
11 website which provides details regarding the proposed
12 route of the pipeline, plans for construction, status of
13 the application, and the manner in which members of the
14 public may offer their opinions regarding the pipeline;

15 (6.3) the applicant has directly contacted the owner
16 of each parcel of land located within 2 miles of the
17 proposed pipeline route by certified mail, or made good
18 faith efforts if the owner of record cannot be located,
19 advising them of the proposed pipeline route and of the
20 date and time of each public meeting to be held in the
21 county in which each landowner's property is located;

22 (6.4) the applicant has prepared and submitted a
23 detailed emergency operations plan, which addresses at a
24 minimum, emergency operations plan requirements adopted by
25 the Illinois Emergency Management Agency and Office of
26 Homeland Security under paragraph (4) of subsection (f) of

1 Section 5 of the Illinois Emergency Management Agency Act.
2 The submitted emergency operations plan shall also provide
3 for post-emergency analysis and controller actions. In
4 addition, the applicant shall demonstrate that it has
5 communicated with the county emergency services and
6 disaster agency (ESDA), or other relevant mandated ESDA,
7 to coordinate its emergency operations plan for the
8 pipeline with the county ESDA's, or other relevant
9 mandated ESDA's, emergency operations plan;

10 (7) the applicant possesses the financial, managerial,
11 legal, and technical qualifications necessary to construct
12 and operate the proposed carbon dioxide pipeline; and

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

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

22 (B) any evidence of the effect of the pipeline
23 ~~upon property values~~ presented by property owners who
24 will be affected by the proposed pipeline or facility,
25 provided that the Commission need not hear evidence as
26 to the actual valuation of property such as that as

1 would be presented to and determined by the courts
2 under the Eminent Domain Act;

3 (C) any evidence presented by the Department of
4 Commerce and Economic Opportunity regarding the
5 current and future local, State-wide, or regional
6 economic effect, direct or indirect, of the proposed
7 pipeline or facility including, but not limited to,
8 ability of the State to attract economic growth, meet
9 future energy requirements, and ensure compliance with
10 environmental requirements and goals;

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

18 (E) any evidence presented by any State or federal
19 governmental entity as to how the proposed pipeline
20 will affect the security, stability, and reliability
21 of public infrastructure ~~energy~~.

22 In its written order, the Commission shall address all of
23 the evidence presented, and if the order is contrary to any of
24 the evidence, the Commission shall state the reasons for its
25 determination with regard to that evidence.

26 (c) When an applicant files its application for a

1 certificate of authority with the Commission, it shall provide
2 notice to each unit of local government where the proposed
3 pipeline will be located and include a map of the proposed
4 pipeline route. The applicant shall also publish notice in a
5 newspaper of general circulation in each county where the
6 proposed pipeline is located.

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

21 (e) The Commission's rules shall ensure that notice of an
22 application for a certificate of authority is provided within
23 30 days after filing to the landowners along a proposed
24 project route, or to the potentially affected landowners
25 within a proposed project route width, using the notification
26 procedures set forth in the Commission's rules. If the

1 Commission grants approval of a project route width as opposed
2 to a specific project route, then the applicant must, as it
3 finalizes the actual pipeline alignment within the project
4 route width, file its final list of affected landowners with
5 the Commission at least 14 days in advance of beginning
6 construction on any tract within the project route width and
7 also provide the Commission with at least 14 days' notice
8 before filing a complaint for eminent domain in the circuit
9 court with regard to any tract within the project route width.

10 (f) If an applicant has obtained all necessary federal
11 licenses, permits, and authority necessary to construct and
12 operate a carbon dioxide pipeline before it files an
13 application pursuant to this Section, then the ~~The~~ Commission
14 shall make its determination on any application for a
15 certificate of authority ~~filed pursuant to this Section~~ and
16 issue its final order within 11 months after the date that the
17 application is filed. The Commission's failure to act within
18 this time period shall not be deemed an approval or denial of
19 the application.

20 (g) A final order of the Commission granting a certificate
21 of authority pursuant to this Act shall be conditioned upon
22 the applicant obtaining all required permits or approvals from
23 the Pipeline and Hazardous Materials Safety Administration of
24 the U.S. Department of Transportation, U.S. Army Corps of
25 Engineers, and Illinois Department of Agriculture, in addition
26 to all other permits and approvals necessary for the

1 construction and operation of the pipeline prior to the start
2 of any construction. The final order must specifically
3 prohibit the start of any construction until all such permits
4 and approvals have been obtained. The Commission shall not
5 issue any certificate of authority under this Act until (i)
6 the Pipeline and Hazardous Materials Safety Administration has
7 adopted final revisions to its pipeline safety rules intended
8 to enhance the safe transportation of carbon dioxide by
9 pipelines to accommodate an anticipated increase in the number
10 of carbon dioxide pipelines and volume of carbon dioxide
11 transported in the proposed rulemaking designated Regulatory
12 Information Number 2137-AF60, and (ii) the Commission has
13 verified that the submitted application complies with those
14 finalized rules. If, after July 1, 2026, the Pipeline and
15 Hazardous Materials Safety Administration has not adopted
16 final revisions to its pipeline safety rules under the
17 proposed rulemaking designated Regulatory Information Number
18 2137-AF60, the Commission may only approve a certificate of
19 authority under this Section if it finds that the applicant
20 has met all of the requirements of this Act, has already
21 acquired all of its other necessary approvals, and is
22 compliant with any requirements or conditions adopted by the
23 Commission subsection (g-5).

24 (g-5) In granting a certificate under this Act, the
25 Commission shall adopt such requirements or impose such
26 conditions upon a certificate as in its opinion are necessary

1 to preserve public safety, as long as such requirements are
2 compatible with the minimum standards prescribed by the
3 Pipeline and Hazardous Material Safety Administration.

4 (h) Within 6 months after the Commission's entry of an
5 order approving either a specific route or a project route
6 width under this Section, the owner or operator of the carbon
7 dioxide pipeline that receives that order may file
8 supplemental applications for minor route deviations outside
9 the approved project route width, allowing for additions or
10 changes to the approved route to address environmental
11 concerns encountered during construction or to accommodate
12 landowner requests. The supplemental application shall
13 specifically detail the environmental concerns or landowner
14 requests prompting the route changes, including the names of
15 any landowners or entities involved. Notice of a supplemental
16 application shall be provided to any State agency or unit of
17 local government that appeared in the original proceeding and
18 to any landowner affected by the proposed route deviation at
19 the time that supplemental application is filed. The route
20 deviations shall be approved by the Commission no sooner than
21 90 days after all interested parties receive notice of the
22 supplemental application, unless a written objection is filed
23 to the supplemental application within 45 days after such
24 notice is received. If a written objection is filed, then the
25 Commission shall issue an order either granting or denying the
26 route deviation within 90 days after the filing of the

1 objection. Hearings on any such supplemental application shall
2 be limited to the reasonableness of the specific variance
3 proposed, and the issues of the public interest and benefit of
4 the project or fitness of the applicant shall be considered
5 only to the extent that the route deviation has raised new
6 concerns with regard to those issues.

7 (i) A certificate of authority to construct and operate a
8 carbon dioxide pipeline issued by the Commission shall contain
9 and include all of the following:

10 (1) a grant of authority to construct and operate a
11 carbon dioxide pipeline as requested in the application,
12 subject to the laws of this State; and

13 (2) the right to seek eminent domain authority from
14 the Commission under Section 8-509 of the Public Utilities
15 Act. ~~a limited grant of authority to take and acquire an~~
16 ~~easement in any property or interest in property for the~~
17 ~~construction, maintenance, or operation of a carbon~~
18 ~~dioxide pipeline in the manner provided for the exercise~~
19 ~~of the power of eminent domain under the Eminent Domain~~
20 ~~Act. The limited grant of authority shall be restricted~~
21 ~~to, and exercised solely for, the purpose of siting,~~
22 ~~rights of way, and easements appurtenant, including~~
23 ~~construction and maintenance. The applicant shall not~~
24 ~~exercise this power until it has used reasonable and good~~
25 ~~faith efforts to acquire the property or easement thereto.~~
26 ~~The applicant may thereafter use this power when the~~

~~applicant determines that the easement is necessary to
avoid unreasonable delay or economic hardship to the
progress of activities carried out pursuant to the
certificate of authority.~~

(j) All applications under this Act pending before the
Commission on the effective date of this amendatory Act of the
103rd General Assembly shall be dismissed without prejudice.

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

(220 ILCS 75/35 new)

Sec. 35. Land surveys and land use studies. For the
purpose of making land surveys and land use studies, any
applicant that has been granted a certificate of authority
under this Section may, 30 days after providing written notice
to the landowner thereof by registered mail and after
providing a second notice to the owner of record, as
identified in the records of the relevant county tax assessor,
by telephone or email or by registered mail if the landowner
has not been notified by other means, at least 3 days, but not
more than 15 days, prior to the stated date in the notice,
identifying the date when land surveys and land use studies
will first begin on the landowner's property and informing the
landowner that the landowner or the landowner's agent may be
present when the land surveys or land use studies occur, enter
upon the property of any landowner who has refused permission
for entrance upon that property, but subject to responsibility

1 for all damages which may be inflicted thereby.

2 (220 ILCS 75/40 new)

3 Sec. 40. Pipeline operator fees. Any person or entity that
4 has been granted a certificate of authority authorizing the
5 construction and operation of a carbon dioxide pipeline
6 pursuant to this Section or any person or entity operating a
7 legacy carbon dioxide pipeline shall be assessed an annual fee
8 per pipeline system operated in the State, plus an additional
9 fee per mile of carbon dioxide pipeline in length that is
10 physically operated or proposed to be operated in the State.

11 The Commission may adopt any rules and procedures
12 necessary to enforce and administer the provisions of this
13 Act. The Commission may, by administrative rule, modify any
14 rules or procedures or adjust any Commission fees necessary to
15 regulate and enforce the provisions of this Act. The
16 Commission shall adopt such rules in consultation with the
17 Illinois Emergency Management Agency and Office of Homeland
18 Security in order to establish the total amount necessary to
19 cover the Commission's and Illinois Emergency Management
20 Agency and Office of Homeland Security's administrative costs
21 plus the amount necessary to fund the needs of emergency
22 responders as determined by the Illinois Emergency Management
23 Agency and Office of Homeland Security. The Commission rules
24 shall include, but shall not be limited to, the following
25 provisions:

1 (1) a provision requiring a portion of the fee to be
2 allocated to the Commission for purposes of assessing the
3 permit application and regulating the operating pipeline;

4 (2) a provision requiring the balance of the fee to be
5 allocated and transferred to the Illinois Emergency
6 Management Agency and Office of Homeland Security for
7 compiling and maintaining emergency response plans and
8 coordinating and funding training, exercises, and
9 equipment of first responders along the pipeline route
10 through agreements and grants to county emergency services
11 and disaster agencies;

12 (3) a provision requiring the fee to be payable to the
13 Commission and due 30 days after the certificate of
14 authority is granted by the Commission, and at the
15 conclusion of each State fiscal year. The Commission shall
16 transfer to the Illinois Emergency Management Agency and
17 Office of Homeland Security's Emergency Planning and
18 Training Fund its allocable share within 30 days following
19 the end of each fiscal year to be utilized as indicated in
20 paragraph (2);

21 (4) a provision requiring the fee to be assessed with
22 a flat fee per pipeline system, plus an additional fee
23 assessed per each mile of a pipeline, based on the actual
24 length of carbon dioxide pipeline that has been used to
25 transport carbon dioxide in the State in the State fiscal
26 year during which the fee is imposed;

1 (5) a provision requiring the fee structure to be
2 designed to collect the funds necessary for emergency
3 responders in a manner that facilitates the safe and
4 reliable development of new carbon dioxide pipelines
5 within the State; and

6 (6) a provision requiring the fee to be adjusted with
7 inflation.

8 Section 55. The Environmental Protection Act is amended by
9 changing Section 21 and by adding Title XVIII as follows:

10 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

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

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

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

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

20 (d) Conduct any waste-storage, waste-treatment, or
21 waste-disposal operation:

22 (1) without a permit granted by the Agency or in
23 violation of any conditions imposed by such permit,
24 including periodic reports and full access to adequate

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

26 (2) in violation of any regulations or standards

1 adopted by the Board under this Act;

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

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

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

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

7 (f) Conduct any hazardous waste-storage, hazardous
8 waste-treatment or hazardous waste-disposal operation:

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

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

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

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

23 Notwithstanding the above, no RCRA permit shall be
24 required under this subsection or subsection (d) of Section 39
25 of this Act for any person engaged in agricultural activity
26 who is disposing of a substance which has been identified as a

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

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

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

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

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

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

21 (j) Conduct any special waste-transportation operation in
22 violation of any regulations, standards or permit requirements
23 adopted by the Board under this Act. However, sludge from a
24 water or sewage treatment plant owned and operated by a unit of
25 local government which (1) is subject to a sludge management
26 plan approved by the Agency or a permit granted by the Agency,

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

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

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

1 utilization of sludge from publicly owned sewage works.

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

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

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

14 (1) refuse in standing or flowing waters;

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

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

19 (4) open burning of refuse in violation of Section 9
20 of this Act;

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

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

26 (7) acceptance of wastes without necessary permits;

1 (8) scavenging as defined by Board regulations;

2 (9) deposition of refuse in any unpermitted portion of
3 the landfill;

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

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

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

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

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

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

22 (1) litter;

23 (2) scavenging;

24 (3) open burning;

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

26 (5) proliferation of disease vectors;

1 (6) standing or flowing liquid discharge from the dump
2 site;

3 (7) deposition of:

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

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

8 The prohibitions specified in this subsection (p) 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 open dumping.

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

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

21 (1.5) conducting a landscape waste composting
22 operation that (i) has no more than 25 cubic yards of
23 landscape waste, composting additives, composting
24 material, or end-product compost on-site at any one time
25 and (ii) is not engaging in commercial activity; or

26 (2) applying landscape waste or composted landscape

1 waste at agronomic rates; or

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

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

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

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

25 (C) all compost generated by the composting
26 facility, except incidental sales of finished compost,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 For the purposes of this subsection (q), "incidental sale
19 of finished compost" means the sale of finished compost that
20 meets general use compost standards and is no more than 20% or
21 300 cubic yards, whichever is less, of the total compost
22 created annually by a private landowner for the landowner's
23 own use.

24 (r) Cause or allow the storage or disposal of coal
25 combustion waste unless:

26 (1) such waste is stored or disposed of at a site or

1 facility for which a permit has been obtained or is not
2 otherwise required under subsection (d) of this Section;
3 or

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

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

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

24 (ii) the owner or operator of the facility
25 demonstrates all of the following to the Agency, and
26 the facility is operated in accordance with the

1 demonstration as approved by the Agency: (1) the
2 disposal area will be covered in a manner that will
3 support continuous vegetation, (2) the facility will
4 be adequately protected from wind and water erosion,
5 (3) the pH will be maintained so as to prevent
6 excessive leaching of metal ions, and (4) adequate
7 containment or other measures will be provided to
8 protect surface water and groundwater from
9 contamination at levels prohibited by this Act, the
10 Illinois Groundwater Protection Act, or regulations
11 adopted pursuant thereto.

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

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

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

1 the lateral expansion.

2 (u) Conduct any vegetable by-product treatment, storage,
3 disposal or transportation operation in violation of any
4 regulation, standards or permit requirements adopted by the
5 Board under this Act. However, no permit shall be required
6 under this Title V for the land application of vegetable
7 by-products conducted pursuant to Agency permit issued under
8 Title III of this Act to the generator of the vegetable
9 by-products. In addition, vegetable by-products may be
10 transported in this State without a special waste hauling
11 permit, and without the preparation and carrying of a
12 manifest.

13 (v) (Blank).

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

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

1 (y) Inject any carbon dioxide stream produced by a carbon
2 dioxide capture project into a Class II well, as defined by the
3 Board under this Act, or a Class VI well converted from a Class
4 II well, for purposes of enhanced oil or gas recovery,
5 including, but not limited to, the facilitation of enhanced
6 oil or gas recovery from another well.

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

10 (aa) Operate a carbon sequestration activity in a manner
11 that causes, threatens, or allows the release of carbon
12 dioxide so as to tend to cause water pollution in this State.

13 (Source: P.A. 102-216, eff. 1-1-22; 102-310, eff. 8-6-21;
14 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 103-342, eff.
15 1-1-24.)

16 (415 ILCS 5/Tit. XVIII heading new)

17 TITLE XVIII: CARBON CAPTURE AND SEQUESTRATION

18 (415 ILCS 5/59 new)

19 Sec. 59. Definitions. As used in this Title:

20 "Carbon dioxide capture project" mean a project or
21 facility that:

22 (1) uses equipment to capture a significant quantity
23 of carbon dioxide directly from the ambient air or uses a
24 process to separate carbon dioxide from industrial or

1 energy-related sources, other than oil or gas production
2 from a well; and

3 (2) produces a concentrated fluid of carbon dioxide.

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

10 "Carbon sequestration activity" means the injection of one
11 or more carbon dioxide streams into underground geologic
12 formations under at least one Class VI well permit for
13 long-term sequestration.

14 "Criteria pollutants" means the 6 pollutants for which the
15 United States Environmental Protection Agency has set National
16 Ambient Air Quality Standards under Section 109 of the Clean
17 Air Act, together with recognized precursors to those
18 pollutants.

19 "Project labor agreement" means a prehire collective
20 bargaining agreement that covers all terms and conditions of
21 employment on a specific construction project and must include
22 the following:

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

25 (2) provisions establishing the benefits and other
26 compensation for each class of labor organization

1 employee;

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

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

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

13 "Project labor agreement" includes other terms and conditions
14 a labor organization or general contractor building the
15 project deems necessary.

16 "Sequestration facility" means the carbon dioxide
17 sequestration reservoir, underground equipment, including, but
18 not limited to, well penetrations, and surface facilities and
19 equipment used or proposed to be used in a carbon
20 sequestration activity. "Sequestration facility" includes each
21 injection well and equipment used to connect surface
22 activities to the carbon dioxide sequestration reservoir and
23 underground equipment. "Sequestration facility" does not
24 include pipelines used to transport carbon dioxide to a
25 sequestration facility.

1 (415 ILCS 5/59.1 new)

2 Sec. 59.1. Carbon capture permit requirements. For air
3 construction permit applications for carbon dioxide capture
4 projects at existing sources submitted on or after the
5 effective date of this amendatory Act of the 103rd General
6 Assembly, no permit may be issued unless all of the following
7 requirements are met:

8 (1) The permit applicant demonstrates that there will
9 be no net increase in the individual allowable potential
10 annual criteria pollutant emissions at the source. If the
11 Agency determines that it is technically infeasible for an
12 applicant to demonstrate that there will be no net
13 increase in the individual allowable potential annual
14 criteria pollutant emissions at the source, the Agency
15 shall allow an alternative demonstration.

16 (2) The Agency has complied with the public
17 participation requirements under 35 Ill. Adm. Code 252.

18 (3) The permit applicant submits to the Agency in its
19 permit application, a Greenhouse Gas Inventory Analysis,
20 as set forth in guidance from the United States
21 Environmental Protection Agency, that includes all
22 emissions at the stack or emissions source from which
23 carbon dioxide is captured and a demonstration that the
24 total greenhouse gas emissions associated with capture,
25 including, but not limited to, (i) the emissions at the
26 stack or emissions source from which the carbon dioxide is

1 captured, (ii) the additional emissions associated with
2 additional electricity generated, whether on-site or
3 off-site, used to power any capture equipment, and (iii)
4 any increased emissions necessary for the operation of the
5 capture facility as compared to before the installation
6 and operation of the capture equipment at the facility, do
7 not exceed the total amount of greenhouse gas emissions
8 captured. This comparison shall be made on an annual
9 basis, projected across the proposed life span of the
10 capture project.

11 (4) The permit applicant provides a water impact
12 assessment report. The report must have been submitted to
13 Department of Natural Resources and to the Soil and Water
14 Conservation District in the county in which the project
15 will be constructed. The report shall identify the
16 following:

17 (A) each water source to be used by the project;

18 (B) the pumping method to be used by the project;

19 (C) the maximum and expected average daily pumping
20 rates for the pumps used by the project;

21 (D) the impacts to each water source used by the
22 project, such as aquifer drawdown or river reductions;
23 and

24 (E) a detailed assessment of the impact on water
25 users near the area of impact.

26 The water impact assessment shall consider the water

1 impacts (i) immediately following the project's initial
2 operations, (ii) at the end of the project's expected
3 operational life, and (iii) during a drought or other
4 similar event.

5 The permit applicant shall submit a certification to the
6 Agency that the applicant has submitted its initial water use
7 impact study and the applicant's ongoing water usage to the
8 Department of Natural Resources. This requirement may be
9 satisfied by submitting to the Agency copies of documents
10 provided to the United States Environmental Protection Agency
11 in accordance with 40 CFR 146.82 if the applicant satisfies
12 the requirements of this Section.

13 (415 ILCS 5/59.2 new)

14 Sec. 59.2. Report on minimum carbon capture standards and
15 the deployment of carbon capture and sequestration technology.
16 By December 1, 2028, the Agency, in consultation with Illinois
17 Emergency Management Agency and Office of Homeland Security,
18 the Illinois Commerce Commission, the Commission on
19 Environmental Justice, and the Department of Natural
20 Resources, shall submit to the Governor and General Assembly,
21 a report that reviews the progress on the implementation of
22 carbon dioxide capture, transport, and storage projects in
23 this State. The Agency may also obtain outside consultants to
24 assist with the report. The report shall include, at minimum:

25 (1) a review of federal and other State statutory or

1 regulatory actions to establish and implement a minimum
2 carbon capture efficiency rate at the stack or emission
3 point;

4 (2) a review of active and proposed capture projects,
5 including the types of technology and capture rates used
6 by various industry subsectors to capture and store
7 carbon;

8 (3) an assessment of the technical and economic
9 feasibility of carbon capture in various industries and
10 various rates of capture; and

11 (4) an environmental justice analysis which includes,
12 but is not limited to:

13 (A) an assessment of capture, transport, and
14 sequestration projects that present potential impacts
15 on environmental justice communities and economically
16 disadvantaged rural communities;

17 (B) how public participation processes associated
18 with the permitting of carbon capture, transport, and
19 storage projects provide transparency and meaningful
20 participation for environmental justice communities,
21 rural communities, minority populations, low-income
22 populations, tribes, or indigenous peoples; and

23 (C) options for State agencies and decision-makers
24 to improve environmental, public health, and economic
25 protections for environmental justice communities and
26 economically disadvantaged rural communities in

1 permitting and regulatory enforcement of permit
2 provisions of carbon capture, transport, and
3 sequestration proposals.

4 (415 ILCS 5/59.3 new)

5 Sec. 59.3. Minimum carbon dioxide capture efficiency
6 rulemaking authority. The Agency may propose, and the Board
7 may adopt, rules to establish a minimum carbon capture
8 efficiency rate for carbon capture projects. The Agency may
9 propose, and the Board may adopt, a minimum carbon capture
10 efficiency rate that is applicable to all carbon capture
11 projects or individual efficiencies applicable to distinct
12 industries.

13 (415 ILCS 5/59.4 new)

14 Sec. 59.4. Report on the status and impact of carbon
15 capture and sequestration. Beginning July 1, 2029, and every 5
16 years thereafter, the Agency shall submit a report to the
17 Governor and General Assembly that includes, for each State
18 carbon dioxide capture project:

19 (1) the amount of carbon dioxide captured on an annual
20 basis;

21 (2) the means for transporting the carbon dioxide to a
22 sequestration or utilization facility;

23 (3) the location of the sequestration or utilization
24 facility used;

1 (4) the electrical power consumption of the carbon
2 dioxide capture equipment; and

3 (5) the generation source or sources providing
4 electrical power for the carbon dioxide capture equipment
5 and the emissions of CO₂ and criteria pollutants of the
6 generation source or sources.

7 (415 ILCS 5/59.5 new)

8 Sec. 59.5. Prohibitions.

9 (a) No person shall conduct a carbon sequestration
10 activity without a permit issued by the Agency under Section
11 59.6. This prohibition does not apply to any carbon
12 sequestration activity in existence and permitted by the
13 United States Environmental Protection Agency on or before the
14 effective date of this amendatory Act of the 103rd General
15 Assembly or to any Class VI well for which (1) a Class VI well
16 permit has been filed with the United States Environmental
17 Protection Agency and a completeness determination had been
18 received prior to January 1, 2023, and (2) the sequestration
19 activity will occur on a contiguous property with common
20 ownership where the carbon dioxide is generated, captured, and
21 injected.

22 (b) No person shall conduct a carbon sequestration
23 activity in violation of this Act.

24 (c) No person shall conduct a carbon sequestration
25 activity in violation of any applicable rules adopted by the

1 Pollution Control Board.

2 (d) No person shall conduct a carbon sequestration
3 activity in violation of a permit issued by the Agency under
4 this Act.

5 (e) No person shall fail to submit reports required by
6 this Act or required by a permit issued by the Agency under
7 this Act.

8 (f) No person shall conduct a carbon sequestration
9 activity without obtaining an order for integration of pore
10 space from the Department of Natural Resources, if applicable.

11 (415 ILCS 5/59.6 new)

12 Sec. 59.6. Sequestration permit; application contents. An
13 application to obtain a carbon sequestration permit under this
14 Act shall contain, at a minimum, the following:

15 (1) A map and accompanying description that clearly
16 identifies the location of all carbon sequestration
17 activities for which a permit is sought.

18 (2) A map and accompanying description that clearly
19 identifies the properties overlaying the carbon
20 sequestration activity.

21 (3) Copies of any permit and related application
22 materials submitted to or issued by the United States
23 Environmental Protection Agency in accordance with 40 CFR
24 146.82.

25 (4) A report describing air and soil gas baseline

1 conditions at properties potentially impacted by a release
2 from the carbon sequestration activity to determine
3 background levels of constituents of concern present
4 before the commencement of the carbon sequestration
5 activity for which a permit is sought. The report must:

6 (A) contain sampling data generated within 180
7 calendar days prior to the submission of the permit
8 application;

9 (B) identify the constituents of concern for which
10 monitoring was conducted and the method for selecting
11 those constituents of concern;

12 (C) use and describe the sampling methodology
13 employed to collect and test air and soil samples in a
14 manner consistent with standards established by a
15 national laboratory accreditation body;

16 (D) identify the accredited laboratory used to
17 conduct necessary testing; and

18 (E) include the sampling results for the
19 identified constituents of concern.

20 (5) The permit application must include an air
21 monitoring plan containing, at a minimum, the following
22 elements:

23 (A) sufficient surface and near-surface monitoring
24 points based on potential risks of atmospheric carbon
25 dioxide and any other identified constituents of
26 concern attributable to the carbon sequestration

1 activity to identify the nature and extent any release
2 of carbon dioxide or other constituents of concern,
3 the source of the release, and the estimated volume of
4 the release;

5 (B) a monitoring frequency designed to evaluate
6 the nature and extent of any release of carbon dioxide
7 or other constituents of concern, the source of the
8 release, and the estimated volume of the release;

9 (C) a description of the monitoring network
10 components and methods, including sampling and
11 equipment quality assurance methods, that comply with
12 applicable testing and laboratory standards,
13 established by a national laboratory accreditation
14 body;

15 (D) confirmation monitoring protocols to address
16 any monitoring results that reflect a statistically
17 significant increase over background levels; and

18 (E) development and submission of quarterly air
19 monitoring reports to the Agency.

20 This requirement may be satisfied by the submission of
21 copies of documents provided to the United States
22 Environmental Protection Agency in accordance with 40 CFR
23 146.82 if the applicant satisfies the requirements of this
24 Section.

25 (6) The permit application must include a soil gas
26 monitoring plan containing, at a minimum, the following

1 elements:

2 (A) sufficient soil sampling points and sampling
3 depths to identify the nature and extent of any
4 release of carbon dioxide or other constituents of
5 concern, the source of the release, and the estimated
6 volume of the release;

7 (B) a monitoring frequency designed to identify
8 the nature and extent of any release of carbon dioxide
9 or other constituents of concern, the source of the
10 release, and the estimated volume of the release;

11 (C) a description of the monitoring network
12 components and methods, including sampling and
13 equipment quality assurance methods, that comply with
14 applicable testing and laboratory standards,
15 established by a national laboratory accreditation
16 body;

17 (D) confirmation monitoring protocols to address
18 any monitoring results that reflect a statistically
19 significant increase over background levels; and

20 (E) development and submission of quarterly soil
21 gas monitoring reports to the Agency.

22 This requirement may be satisfied by the submission of
23 copies of documents provided to the United States
24 Environmental Protection Agency in accordance with 40 CFR
25 146.82 if the applicant satisfies the requirements of this
26 Section.

1 (7) The permit application must include an emergency
2 response plan designed to respond to and minimize the
3 immediate threat to human health and the environment from
4 a release from the carbon sequestration activity. The plan
5 must have been submitted to the Illinois Emergency
6 Management Agency and Office of Homeland Security for
7 review and input on the emergency preparedness activities
8 prior to submitting in a permit application to the Agency.
9 Proof of this submission must be included with the permit
10 application. The plan must:

11 (A) identify the resources and infrastructure near
12 carbon sequestration activity;

13 (B) identify potential risk scenarios that would
14 result in the need to trigger a response plan.
15 Potential risk scenarios must include, at a minimum:

16 (i) injection or monitoring well integrity
17 failure;

18 (ii) injection well monitoring equipment
19 failure;

20 (iii) fluid or carbon dioxide release;

21 (iv) natural disaster; or

22 (v) induced or natural seismic event;

23 (C) describe response actions necessary to prepare
24 for and address each risk scenario identified in the
25 emergency response plan. These actions should include,
26 but are not limited to, identification and maintenance

1 of sensors and alarms to detect carbon dioxide leaks,
2 an internal and external communications plan
3 accounting for external communications to the public
4 in the primary languages of potentially impacted
5 populations, a training program that includes regular
6 training for employees and emergency responders on how
7 to handle carbon dioxide, public safety, and
8 evacuation plans, and post-incident analysis and
9 reporting procedures;

10 (D) identify personnel and equipment necessary to
11 comprehensively address the emergency;

12 (E) describe emergency notification procedures,
13 including notifications to and coordination with State
14 and local emergency response agencies;

15 (F) describe the process for determining the
16 nature and extent of any injuries or private or public
17 property damage attributable to the release of carbon
18 dioxide;

19 (G) include an air and soil gas monitoring plan
20 designed to determine the nature and extent of any air
21 or soil gas impacts attributable to a release from the
22 permitted carbon sequestration activity; and

23 (H) provide any additional information or action
24 plans requested by the Agency or the Illinois
25 Emergency Management Agency and Office of Homeland
26 Security.

1 This requirement may be satisfied by the submission of
2 copies of documents provided to the United States
3 Environmental Protection Agency in accordance with 40 CFR
4 146.82 if the applicant satisfies the requirements of this
5 Section.

6 (8) The permit applicant must include a water impact
7 assessment report. The report must have been submitted to
8 the Department of Natural Resources and to the Soil and
9 Water Conservation District in the county in which the
10 project will be constructed. The report shall identify the
11 following:

12 (A) each water source to be used by the project;

13 (B) the pumping method to be used by the project;

14 (C) the maximum and expected average daily pumping
15 rates for the pumps used by the project;

16 (D) the impacts to each water source, such as
17 aquifer drawdown or river reductions; and

18 (E) a detailed assessment of the impact of the
19 project on water users near the area of impact.

20 The impact assessment shall consider the water impacts
21 (i) immediately following the project's initial
22 operations, (ii) at the end of the project's expected
23 operational life, and (iii) during a drought or other
24 similar event.

25 The permit applicant shall submit a certification to
26 the Agency from the Department of Natural Resources that

1 the applicant has submitted its initial water use impact
2 study and is submitting to the Department of Resources the
3 applicant's ongoing water usage. This requirement may be
4 satisfied by the submission of copies of documents
5 provided to the United States Environmental Protection
6 Agency in accordance with 40 CFR 146.82 if the applicant
7 satisfies the requirements of this Section.

8 (9) The permit application must include a remedial
9 action plan designed to address the air and soil impacts
10 of a release from the carbon sequestration activity. The
11 remedial action plan must, at a minimum:

12 (A) identify all necessary remedial actions to
13 address air and soil impacts from a release from the
14 sequestration activity, consistent with Title XVII.
15 Soil impacts from a release of carbon dioxide must be
16 addressed through (i) the installation of an
17 appropriate treatment system designed to remove
18 contaminants of concerns emplaced by or the increase
19 in any contaminants of concern that result from, the
20 carbon sequestration activity or (ii) the removal of
21 all impacted soils and transportation of those soils
22 to an appropriately permitted facility for treatment,
23 storage or disposal;

24 (B) include a demonstration of the performance,
25 reliability, ease of implementation, and potential
26 impacts, including safety, cross-media impacts, and

1 control of exposure of any residual contamination, of
2 the selected corrective actions; and

3 (C) identify a reasonable timeline and describe
4 the procedure for implementation and completion of the
5 remedial action plan, consistent with Title XVII,
6 following a release attributable to the sequestration
7 activity.

8 (10) The permit application must include a closure
9 plan that addresses the post-injection site care and
10 closure. The closure plan must include:

11 (A) the pressure differential between preinjection
12 and predicted post-injection pressures at all
13 injection zones;

14 (B) the predicted position of the carbon dioxide
15 plume and associated pressure front at site closure;

16 (C) a description of post-injection monitoring
17 location, methods, and proposed frequency;

18 (D) a proposed schedule for submitting
19 post-injection site care monitoring results to the
20 Agency; and

21 (E) the duration of the post-injection site care
22 period that ensures nonendangerment of groundwater, as
23 specified in 35 Ill. Adm. Code 620, or to human health
24 or the environment. The post-injection site care
25 period shall be no less than 30 years from the last
26 date of injection.

1 This requirement may be satisfied by the submission of
2 copies of documents provided to the United States
3 Environmental Protection Agency in accordance with 40 CFR
4 146.93 if the applicant satisfies the requirements of this
5 Section.

6 (11) The permit application must contain a written
7 estimate of the cost of all air monitoring, soil gas
8 monitoring, emergency response, remedial action, and
9 closure activities required by this Section.

10 The cost estimate must be calculated in terms of
11 reasonable actual remedial, construction, maintenance, and
12 labor costs that the Agency would bear if contracting to
13 complete the actions set forth in an air monitoring, soil
14 gas monitoring, emergency response, remedial action, and
15 closure plans set forth in an Agency-approved permit.

16 The owner or operator must revise the cost estimate
17 whenever there is a change in the air monitoring, soil gas
18 monitoring, emergency response, remedial action, or
19 closure plans that would result in an increase to the cost
20 estimate.

21 The owner or operator must annually revise the cost
22 estimate to adjust for inflation.

23 Revisions to the cost estimate must be submitted to
24 the Agency as a permit modification.

25 (12) Proof that the applicant has financial assurance
26 sufficient to satisfy the requirements set forth in

1 Section 59.10.

2 (13) Proof of insurance that complies with the
3 requirements set forth in Section 59.11.

4 (415 ILCS 5/59.7 new)

5 Sec. 59.7. Sequestration permit application fee. Upon
6 submission of a sequestration facility permit application, and
7 in addition to any other fees required by law, the
8 sequestration operator shall remit to the Agency an initial,
9 one-time permit application fee of \$60,000. One-third of each
10 sequestration facility permit application fee shall be
11 deposited into the Water Resources Fund, the Emergency
12 Planning and Training Fund, and the Carbon Dioxide
13 Sequestration Administrative Fund.

14 (415 ILCS 5/59.8 new)

15 Sec. 59.8. Public participation. Prior to issuing a permit
16 for carbon sequestration activity, the Agency shall issue a
17 public notice of the permit application and draft permit. The
18 public notice shall include a link to a website where copies of
19 the permit application or draft permit, and all included
20 attachments that are not protected under the Freedom of
21 Information Act are posted, and shall provide information
22 concerning the comment period on the draft permit and
23 instructions for how to request a hearing on the draft permit.
24 The Agency shall provide an opportunity for public comments on

1 the draft permit, and shall hold a public hearing upon
2 request. The Agency will make copies of all comments received
3 available on its website and consider those comments when
4 rendering its permit decision.

5 (415 ILCS 5/59.9 new)

6 Sec. 59.9. Closure. The owner or operator of a carbon
7 sequestration activity permitted in accordance with this Act
8 shall monitor the site during the post-injection site care
9 period, which shall be no less than 30 years after the last
10 date of injection, as well as following certification of
11 closure by United States Environmental Protection Act to show
12 the position of the carbon dioxide and pressure front to
13 ensure it does not pose an endangerment to groundwater, as
14 specified in 35 Ill. Adm. Code 620, or to human health or the
15 environment, unless and until the Agency certifies that a
16 carbon sequestration facility is closed. Air and soil gas
17 monitoring required by a carbon sequestration activity permit
18 issued by the Agency must continue until the Agency certifies
19 the carbon sequestration facility as closed. The Agency shall
20 certify a carbon sequestration facility as closed if:

21 (1) the owner or operator submits to the Agency a copy
22 of a closure certification issued for the carbon
23 sequestration facility in accordance with 40 CFR 146.93;
24 and

25 (2) the owner or operator demonstrates to the Agency

1 that no additional air or soil gas monitoring is needed to
2 ensure the carbon sequestration facility does not pose an
3 endangerment to groundwater, as specified in 35 Ill. Adm.
4 Code 620, or to human health or the environment.

5 This demonstration must include location-specific
6 monitoring data. The certification of closure does not relieve
7 an operator of any liabilities from the carbon sequestration
8 activity or carbon sequestration facility.

9 (415 ILCS 5/59.10 new)

10 Sec. 59.10. Financial assurance.

11 (a) The owner or operator of a sequestration activity
12 permitted in accordance with this Act shall maintain financial
13 assurance in an amount equal to or greater than the cost
14 estimate calculated in accordance with paragraph (11) of
15 Section 59.6.

16 (b) The owner or operator of the sequestration activity
17 must use one or a combination of the following mechanisms as
18 financial assurance:

19 (1) a fully funded trust fund;

20 (2) a surety bond guaranteeing payment;

21 (3) a surety bond guaranteeing performance; or

22 (4) an irrevocable letter of credit.

23 (c) The financial assurance mechanism must identify the
24 Agency as the sole beneficiary.

25 (d) The financial assurance mechanism shall be on forms

1 adopted by the Agency. The Agency must adopt these forms
2 within 90 days of the date of the effective date of this
3 amendatory Act of the 103rd General Assembly.

4 (e) The Agency shall release a trustee, surety, or other
5 financial institution holding a financial assurance mechanism
6 when:

7 (1) the owner or operator of a carbon sequestration
8 activity substitutes alternative financial assurance such
9 that the total financial assurance for the site is equal
10 to or greater than the current cost estimate, without
11 counting the amounts to be released; or

12 (2) the Agency determines that the owner or operator
13 is no longer required to maintain a permit.

14 (f) The Agency may enter into contracts and agreements it
15 deems necessary to carry out the purposes of this Section,
16 including, but not limited to, interagency agreements with the
17 Illinois State Geological Survey, the Department of Natural
18 Resources, or other agencies of the State. Neither the State
19 nor any State employee shall be liable for any damages or
20 injuries arising out of or resulting from any action taken
21 under paragraph (11) of Section 59.6.

22 (g) The Agency may order that a permit holder modify the
23 financial assurance or order that proceeds from financial
24 assurance be applied to the corrective action at or closure of
25 an injection site. The Agency may pursue legal action in any
26 court of competent jurisdiction to enforce its rights under

1 financial instruments used to provide the financial assurance
2 required under Section 59.10.

3 (h) An owner or operator of a carbon sequestration
4 activity permitted in accordance with this Act that has a
5 closure plan approved by United States Environmental
6 Protection Agency in accordance with 40 CFR 146.93 may satisfy
7 the financial assurance requirements for any portion of the
8 cost estimates for closure costs required by the Agency by
9 submitting to the Agency true copies of the financial
10 assurance mechanism required by 40 CFR 146.85, if those
11 mechanisms are compliant with Section 59.10.

12 (415 ILCS 5/59.11 new)

13 Sec. 59.11. Insurance.

14 (a) The owner or operator of a carbon sequestration
15 activity permitted in accordance with this Act shall maintain
16 insurance to cover wrongful death, bodily injuries, property
17 damages, and public or private losses related to a release
18 from the carbon sequestration facility from an insurer's
19 holdings at least an A- rating by an AM Best or equivalent
20 credit rating agency. Such insurance shall be in an amount of
21 at least \$25,000,000.

22 (b) The owner or operator of a carbon sequestration
23 activity permitted in accordance with this Act must maintain
24 insurance required by this Section throughout the period
25 during which carbon dioxide is injected into the sequestration

1 site, throughout the post-injection time frame, and until the
2 Agency certifies that the carbon sequestration facility is
3 closed.

4 (c) The insurance policy must provide that the insurer may
5 not cancel or terminate, except for failure to pay the
6 premium.

7 (d) The insurance policy must allow for assignment to a
8 successor owner or operator. The insurer shall not
9 unreasonably withhold consent to assignment of the insurance
10 policy.

11 (415 ILCS 5/59.12 new)

12 Sec. 59.12. Ownership of carbon dioxide; liability.

13 (a) The owner or operator of a sequestration activity
14 permitted in accordance with this Act may be subject to
15 liability for any and all damage, including, but not limited
16 to, wrongful death, bodily injuries, or tangible property
17 damages, caused by a release attributable to the sequestration
18 activity, including, but not limited to, damage caused by
19 carbon dioxide or other fluids released from the sequestration
20 facility, regardless of who holds title to the carbon dioxide,
21 the pore space, or the surface estate.

22 Liability for damage caused by a release attributable to
23 the sequestration activity that is within a sequestration
24 facility or otherwise within a sequestration operator's
25 control, including carbon dioxide being transferred from a

1 pipeline to the injection well, may be joint and several with a
2 third party adjudicated to have caused or contributed to such
3 damage.

4 A claim of subsurface trespass shall not be actionable
5 against an owner of operator of a sequestration facility
6 conducting carbon sequestration activity in accordance with a
7 valid Class VI permit and a permit issued by the Agency for a
8 sequestration facility, unless the claimant proves that
9 injection or migration of carbon dioxide:

10 (1) substantially interferes with the claimant's
11 reasonable use and enjoyment of their real property; or

12 (2) has caused wrongful death or direct physical
13 injury to a person, an animal, or tangible property.

14 The State shall not be liable for any damage caused by or
15 attributable to the sequestration activity.

16 (b) The owner or operator of a sequestration activity
17 permitted in accordance with this Act is liable for any and all
18 damage that may result from equipment associated with carbon
19 sequestration, including, but not limited to, operation of the
20 equipment. Liability for harms or damage resulting from
21 equipment associated with carbon sequestration, including
22 equipment used to transfer carbon dioxide from the pipeline to
23 the injection well, may be joint and several with a third party
24 adjudicated to have caused or contributed to such damage.

25 (c) Title to carbon dioxide sequestered in this State
26 shall be vested in the operator of the sequestration facility.

1 Sequestered carbon dioxide is a separate property independent
2 of the sequestration pore space.

3 (415 ILCS 5/59.13 new)

4 Sec. 59.13. Carbon Sequestration Long-Term Trust Fund. The
5 Carbon Dioxide Sequestration Long-Term Trust Fund is hereby
6 created as a State trust fund in the State treasury. The Fund
7 may receive deposits of moneys made available from any source.
8 All moneys in the Fund are to be invested and reinvested by the
9 State Treasurer. All interest accruing from these investments
10 shall be deposited into the Fund to be used under the
11 provisions of this Section. Moneys in the Fund may be used by
12 the Agency to cover costs incurred to:

13 (1) take any remedial or corrective action necessary
14 to protect human health and the environment from releases,
15 or threatened releases, from a sequestration facility;

16 (2) monitor, inspect, or take other action if the
17 sequestration operator abandons a sequestration facility
18 or injection site, or fails to maintain its obligations
19 under this Act;

20 (3) compensate any person suffering any damages or
21 losses to a person or property caused by a release from a
22 sequestration facility or carbon dioxide pipeline who is
23 not otherwise compensated from the sequestration operator;
24 or

25 (4) any other applicable costs under the Act.

1 Nothing in this Section relieves a sequestration operator
2 from its obligations under this Act, from its liability under
3 Section 59.12, or its obligations to maintain insurance and
4 financial assurances under Sections 59.10 and 59.11.

5 (415 ILCS 5/59.14 new)

6 Sec. 59.14. Water Resources Fund. The Water Resources Fund
7 is hereby created as a special fund in the State treasury to be
8 administered by the Department of Natural Resources. The Fund
9 shall be used by the Department of Natural Resources for
10 administrative costs under obligations under the Water Use Act
11 of 1983, the Environmental Protection Act, or related
12 statutes, including, but not limited to, reviewing water use
13 plans and providing technical assistance to entities for water
14 resource planning.

15 (415 ILCS 5/59.15 new)

16 Sec. 59.15. Environmental Justice Grant Fund. The
17 Environmental Justice Grant Fund is hereby created as a
18 special fund in the State treasury to be administered by the
19 Agency. The Fund shall be used by the Agency to make grants to
20 eligible entities, including, but not limited to, units of
21 local government, community-based nonprofits, and eligible
22 organizations representing areas of environmental justice
23 concern, to fund environmental projects benefiting areas of
24 the State that are disproportionately burdened by

1 environmental harms. Eligible projects include, but are not
2 limited to, water infrastructure improvements, energy
3 efficiency projects, and transportation decarbonization
4 projects.

5 (415 ILCS 5/59.16 new)

6 Sec. 59.16. Carbon Dioxide Sequestration Administrative
7 Fund. The Carbon Dioxide Sequestration Administrative Fund is
8 hereby created as a special fund within the State treasury to
9 be administered by the Agency. Moneys in the fund may be used:

10 (1) for Agency administrative costs incurred for the
11 regulation and oversight of sequestration facilities
12 during their construction, operation, and post-injection
13 phases; and

14 (2) to transfer moneys to funds outlined in Sections
15 59.13, 59.14, and 59.15 for the purpose of implementing
16 and enforcing the Act.

17 The Fund may receive deposits of moneys made available
18 from any source, including, but not limited to, fees, fines,
19 and penalties collected under this Act, investment income, and
20 moneys deposited or transferred into the Fund.

21 (415 ILCS 5/59.17 new)

22 Sec. 59.17. Sequestration annual tonnage fee.

23 (a) Beginning July 1, 2025, and each July 1 thereafter,
24 each sequestration operator shall report to the Agency the

1 tons of carbon dioxide injected in the prior 12 months.

2 (b) If the sequestration operator does not possess a
3 project labor agreement, the sequestration operator shall be
4 assessed a per-ton sequestration fee of \$0.62.

5 (c) If the sequestration operator does possess a project
6 labor agreement, the sequestration operator shall be assessed
7 a per-ton sequestration fee of \$0.31.

8 (d) The fee assessed to the sequestration operator under
9 subsection (c) shall be reduced to \$0.31 for every ton of
10 carbon dioxide injected into a sequestration facility in that
11 fiscal year if the sequestration operator successfully
12 demonstrates to the Department that the following types of
13 construction and maintenance were conducted in the State
14 during that fiscal year by the sequestration operator and were
15 performed by contractors and subcontractors signatory to a
16 project labor agreement used by the building and construction
17 trades council with relevant geographic jurisdiction:

18 (1) construction and maintenance of equipment
19 associated with the capture of carbon dioxide, including,
20 but not limited to, all clearing, site preparation,
21 concrete, equipment, and appurtenance installation;

22 (2) construction and maintenance of carbon dioxide
23 pipelines used to transport carbon dioxide streams to the
24 sequestration facility, including, but not limited to, all
25 clearing, site preparation, and site remediation. For
26 purposes of this subsection (d), a national multi-craft

1 project labor agreement governing pipeline construction
2 and maintenance used in the performance of the work
3 described in this subsection shall satisfy the project
4 labor agreement requirement;

5 (3) construction and maintenance of compressor
6 stations used to assist in the transport of carbon dioxide
7 streams via carbon dioxide pipeline, including, but not
8 limited to, all clearing, site preparation, concrete,
9 equipment, and appurtenance installation; and

10 (4) construction of carbon dioxide injection wells
11 used at the sequestration facility, including, but not
12 limited to, all clearing, site preparation, drilling,
13 distribution piping, concrete, equipment, and appurtenance
14 installation.

15 (e) Sequestration fees shall be deposited into the Carbon
16 Dioxide Sequestration Administrative Fund.

17 (f) The per-ton fee for carbon dioxide injected shall be
18 increased by an amount equal to the percentage increase, if
19 any, in the Consumer Price Index for All Urban Consumers for
20 all items published by the United States Department of Labor
21 for the 12 months ending in March of the year in which the
22 increase takes place. The rate shall be rounded to the nearest
23 one-hundredth of one cent.

24 (g) For the fiscal year beginning July 1, 2025, and each
25 fiscal year thereafter, the Agency, in consultation with the
26 Illinois Emergency Management Agency and the Office of

1 Homeland Security, the Department of Natural Resources, and
2 the Office of Comptroller, shall direct the following
3 transfers from amounts collected under this Act by the Agency:

4 (1) 10% shall be retained in the Carbon Dioxide
5 Sequestration Administrative Fund;

6 (2) 2% shall be transferred to the Water Resources
7 Fund;

8 (3) 6% shall be transferred to the Oil and Gas
9 Resource Management Fund;

10 (4) 20% shall be transferred to the Emergency Planning
11 and Training Fund;

12 (5) 28% shall be transferred to the Carbon Dioxide
13 Sequestration Long-Term Trust Fund;

14 (6) 10% shall be transferred to the General Revenue
15 Fund; and

16 (7) 24% shall be transferred to the Environmental
17 Justice Grant Fund.

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.".