

AN ACT concerning safety.

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

Section 5. The Environmental Protection Act is amended by adding Section 39.16 as follows:

(415 ILCS 5/39.16 new)

Sec. 39.16. Air Pollution Control Construction Permitting
in Areas of Environmental Justice Concern.

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

(1) all residents of this State have a right to a
healthful environment under Article XI of the Illinois
Constitution of 1970;

(2) no community should bear disproportionate and
adverse effects from pollution;

(3) in 2024, the Agency entered in an Informal
Resolution Agreement with the United States Environmental
Protection Agency requiring, among other things,
enhancements to its permit review process for certain
permit transactions in areas of environmental justice
concern; and

(4) such enhancements to the Agency's permit review
process are necessary to avoid the imposition of
disproportionate and adverse effects to communities in

areas of environmental justice concern, as such areas are identified herein.

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

(b) Definitions. For purposes of this Section:

"Area of environmental justice concern" or "area of EJ concern" means a geographical area, the population of which potentially experiences disproportionate environmental harms and risks as a result of both environmental and socioeconomic conditions that may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities. "Area of EJ concern" shall include all census block groups, and all areas within one mile of such census block groups, identified and updated by the Agency on a triennial basis as being within the top 25% of census blocks statewide, scored by multiplying each census block group's average statewide percentile for each of the following environmental indicators, by the census block group's average statewide percentile for each of the following socioeconomic indicators:

Environmental indicators:

(1) annual average concentration of particulate matter less than 2.5 microns or smaller in diameter;

(2) annual average concentration of ozone;

(3) annual average concentration of nitrogen dioxide;

(4) annual average concentration of diesel particulate

matter;

(5) annual average toxicity-weighted concentrations of
Toxic Release Inventory-listed chemicals;

(6) vehicle traffic;

(7) drinking water violations that have not been
returned to compliance;

(8) percentage of housing units built pre-1960;

(9) number of proposed or listed National Priorities
List sites;

(10) number of facilities with Risk Management Plans;

(11) number of treatment, storage, and disposal and
large-quantity generator hazardous waste facilities;

(12) number of leaking underground storage tanks and
underground storage tanks; and

(13) toxics concentrations at stream segments.

Socioeconomic indicators - percentage of population:

(1) with household income less than or equal to twice
the federal poverty level;

(2) unemployed;

(3) living in limited English proficiency households;

(4) aged 25 or older whose education is short of a high
school diploma;

(5) under the age of 5; and

(6) over the age of 64.

Environmental indicators (7) through (13) are given half
the weight of environmental indicators (1) through (6) in

calculating the averaged percentile.

(c) Applicability. This Section applies to the following permits for which an owner or operator applies on or after January 1, 2027:

(1) a construction permit for a new source that is to be located in an area of EJ concern and that will require a Clean Air Act Permit Program permit, or a Federally Enforceable State Operating Permit issued by the Agency under Section 39.5 of this Act;

(2) a construction permit for any existing source that is located in an area of EJ concern, that possesses a Clean Air Act Permit Program permit, or a Federally Enforceable State Operating Permit issued by the Agency under Section 39.5 of this Act and that seeks an increase in annual permitted emissions; or

(3) a construction permit for any existing source that is located in an area of EJ concern, that seeks an increase in annual permitted emissions and that will require a new Clean Air Act Permit Program permit, or a Federally Enforceable State Operating Permit issued by the Agency under Section 39.5 of this Act for the first time.

(d) Review of permit applications; notifications. Upon receipt of an air pollution control construction permit application, the Agency shall evaluate the application to:

(1) determine whether the source falls within an area of EJ concern. Based on this review, the Agency shall send

an EJ notification letter to elected officials, community groups, and individuals who have requested to be notified, to provide information about the proposed project and how an individual can request a public hearing on a permit application;

(2) determine whether emissions increases from the proposed project can be reduced or voluntarily limited by the applicant to avoid or minimize potential air emission increases to any affected area(s) of EJ concern. This includes, but is not limited to, establishment of lower thresholds for potential-to-emit, installation of alternative pollution controls, and decreased utilization of other units at the facility; and

(3) determine the need for the applicant to conduct additional air quality modeling to confirm that the project will not threaten or compromise existing National Ambient Air Quality Standards or other applicable standards appropriate for comparison with other pollutants of concern.

(e) Permit enhancements.

(1) The Agency shall evaluate and, if necessary to comply with this Act, include appropriate permit enhancements to address potential air emission increases to an area of EJ concern. These enhancements may include, but are not limited to:

(A) improved air monitoring systems, including

parametric and continuous monitoring systems;

(B) development of a fugitive dust operating program/plan or enhancements to an existing program/plan;

(C) operational requirements to establish limits on potential-to-emit or to demonstrate source compliance with an emission rate;

(D) increased use or frequency of emissions testing;

(E) development of enforceable requirements to go into the construction permit to assure that the source meets modeling assumptions used in the air quality modeling (including hours of operation, operating requirements, operating schedule, meteorological assumptions, property boundaries, etc.);

(F) development of an odor control plan to identify and mitigate potential off-site odor impacts from the project;

(G) development of odor monitoring of third-party complaints, including a process for tracking complaints and inspecting affected process operations known to be capable of causing air pollution;

(H) discretionary use of prior adjudications of violations of this Act and regulations adopted thereunder by the applicant that involve a release of a contaminant into the environment in evaluating the

permit application;

(I) discretionary use of reasonable conditions specifically related to an applicant's past compliance history with this Act and regulations adopted thereunder as necessary to correct, detect, or prevent noncompliance;

(J) use of pollution prevention techniques; or

(K) applicant outreach, independent of the permit review process, with the affected community.

(2) The Agency may also conduct further analysis, as needed, to inform its permit decision, including:

(A) consideration of information relating to other sources permitted by the Agency or the United States Environmental Protection Agency;

(B) information relating to regulated sources under State or federal environmental laws;

(C) data bearing upon the classification of an area of EJ concern;

(D) location of sensitive populations or places near the proposed facility, including schools, hospitals, day care centers, and culturally significant resources;

(E) factors that may increase community exposure or vulnerability as compared to other populations; or

(F) consultation with the United States Environmental Protection Agency or other state and

federal regulatory authorities regarding additional areas of study.

(3) If the Agency's analysis described in this Section shows disproportionate and adverse effects, the Agency shall consider making additional refinements to the project emissions analysis, air quality modeling, or permit enhancements; prioritizing compliance inspections and any resulting enforcement initiatives of an applicant's existing permitted source or other contributing sources to the affected area, with the aim of reducing existing adverse impacts; prioritizing grant funding for projects in the affected community; and conducting consultations with the United States Environmental Protection Agency or other state and federal agencies relating to potential mitigation options, including fence-line monitoring, risk assessments, or rulemakings.

(f) Issuance of permits.

(1) In making its determination on permit applications identified in Section 39.16(2) of this Act, the Agency shall consider prior adjudications of noncompliance with this Act and regulations adopted thereunder by the applicant. In granting permits, the Agency shall consider whether to impose reasonable conditions specifically related to the applicant's past compliance history with this Act and regulations adopted thereunder as necessary

to correct, detect, or prevent noncompliance. This may include consideration of:

(A) information contained within USEPA's and the Agency's environmental compliance tracking system;

(B) information submitted in public comments to a construction permit application pending review;

(C) judicial or administrative consent decrees or compliance orders that are entered into, or issued by, USEPA involving requirements of the Illinois State Implementation Plan; or

(D) information relating to State-only compliance history.

(2) The Agency shall prepare a written analysis of its evaluation of compliance enforcement history, as well as any additional civil rights analysis or mitigation measures undertaken. The analysis shall be prepared before a notice of public comment or hearing concerning a draft construction permit and must be posted among the documents available on the Agency's public notice website or public repository. If no public participation is provided for under Agency rules, the analysis shall be posted to the Agency's public notice webpage at the time of permit issuance.

(g) Severability. If any provision of this Section or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect

other provisions or applications of this Section that can be given effect without the invalid provision or application.

Section 10. The Environmental Justice Act is amended by adding Section 18 as follows:

(415 ILCS 155/18 new)

Sec. 18. Office of Environmental Justice. An Office of Environmental Justice is established within the Illinois Environmental Protection Agency. The Office shall coordinate the integration of environmental justice into Agency programs and activities, oversee implementation of language access policies, and provide enhanced public outreach to areas of environmental justice concern. The Director shall appoint an Environmental Justice Officer within the Office of Environmental Justice to administer the Office.

Section 97. Severability. If any provision of this Amendatory Act of the 104th General Assembly or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Amendatory Act of the 104th General Assembly that can be given effect without the invalid provision or application.

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