

# 2022 ISBA Environmental Justice Presentation

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# About IEC

Since 1975, the Illinois Environmental Council (IEC) has worked to safeguard Illinois—its people, its plants and animals, and the natural systems on which all life depends by building power for people and the environment.



# Environmental Justice

- Environmental Justice Permitting - HB 4093 (Harper/Villinueva)
  - Passed House. Held in Senate.
- PFAS Incineration Ban - HB 4818 (Greenwood/Belt)
  - Passed both houses!
- Waukegan Coal Ash Clean-Up - SB 3073 (Johnson/ Mayfield)
  - Passed Senate. Held in House.
- Power Plant Demolition - HB 2767 (Mah)
  - Held in House

# THE CLIMATE AND EQUITABLE JOBS ACT

## DEFINING EQUITY ELIGIBLE COMMUNITIES

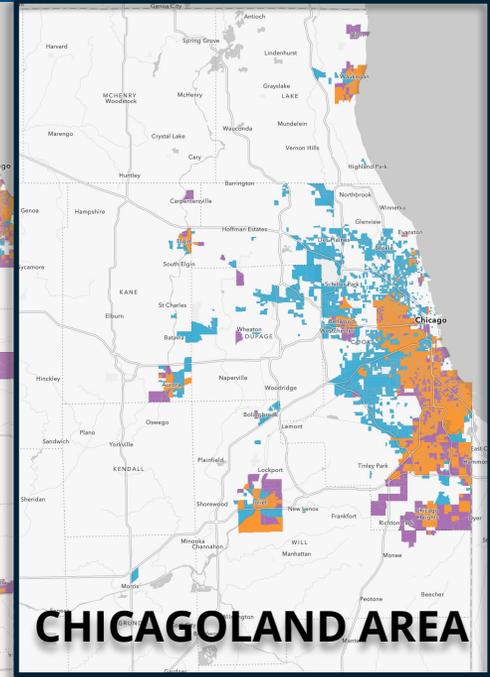
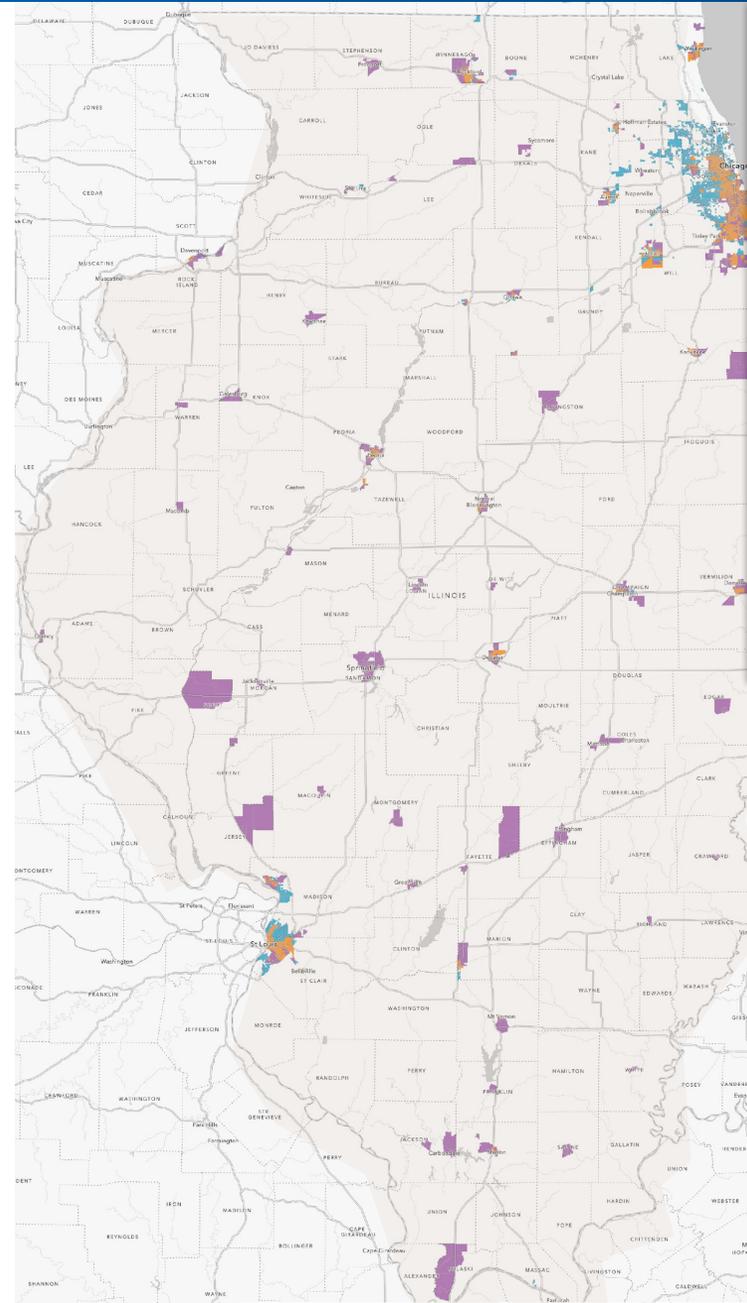
Throughout the new law, the Climate and Equitable Jobs Act Equity targets consideration and explicit benefits to newly-defined Equity Eligible Persons and Equity Eligible Communities which are, among other criteria, residents of Environmental Justice or R3 areas.

### Environmental Justice Communities

Environmental Justice Communities are communities that have been identified through a calculation utilizing the U.S. EPA tool EJ Screen and a demonstrated higher risk of exposure to pollution based on environmental and socioeconomic factors.

### Restore. Reinvest. Renew. (R3) Areas

R3 areas are communities that have been harmed by violence, excessive incarceration, and economic disinvestment, as originally defined for eligibility for R3 grants under Illinois' cannabis law.



Both an Environmental Justice and Restore. Reinvest. Renew (R3) area

Environmental Justice area

Restore. Reinvest. Renew. (R3) area

# THE CLIMATE AND EQUITABLE JOBS ACT



## Solar for All



The Climate and Equitable Jobs increases the size of the Illinois Solar for All program to **\$50 million / yr**. The new law also requires the coordination of the Solar for All program with energy efficiency programs, job training programs, and other efforts, simplifies applications and processes, and ensures statewide deployment.

### 35%

- Low-income single-family and multifamily solar.
- Reserves a portion for projects that promote energy sovereignty.

### 40%

- Low-income community solar.
- Companies must commit to hiring job trainees for a portion.
- Reserves a portion for projects that promote energy sovereignty.

### 25%

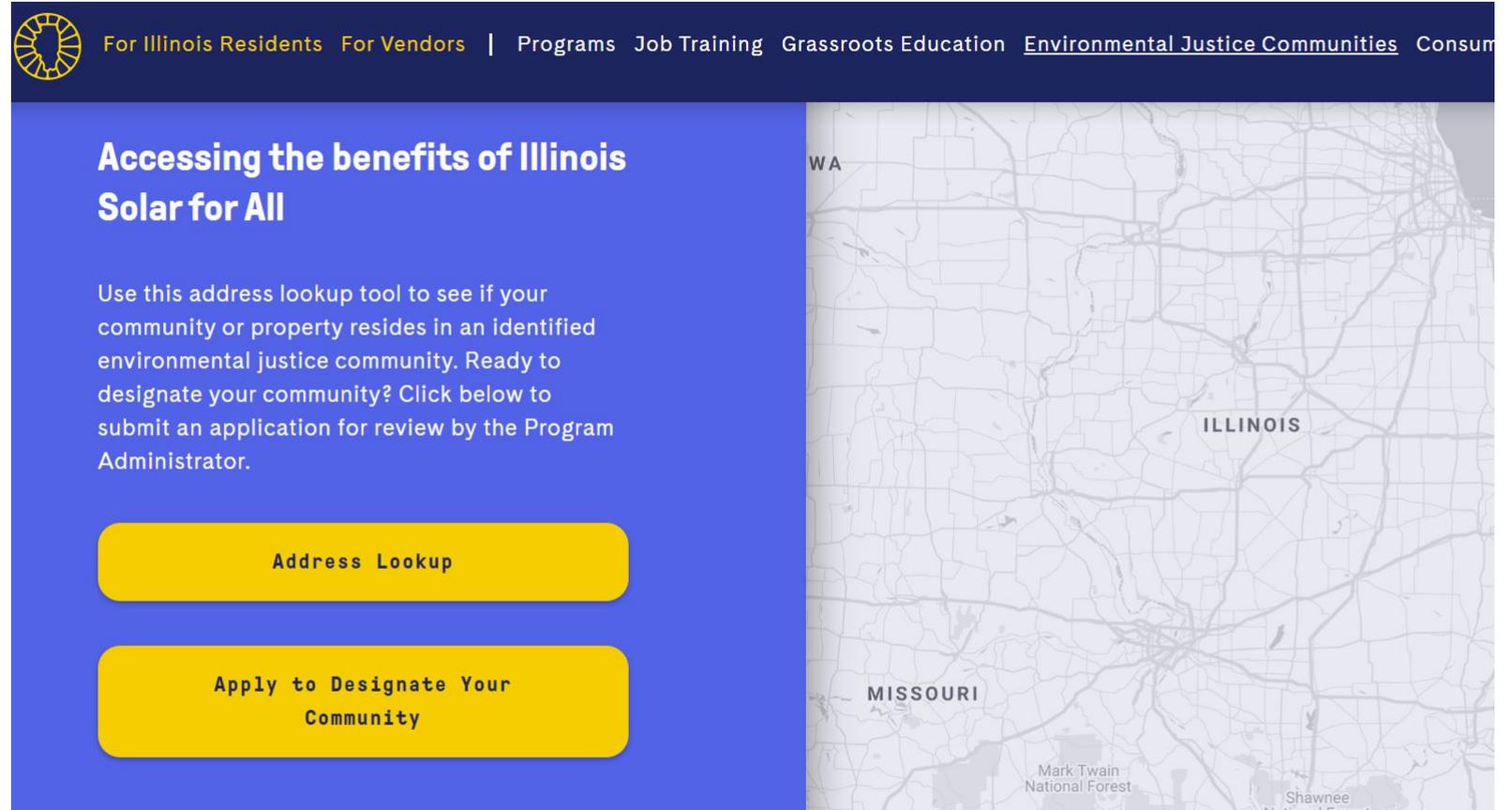
- Non-profit and public facilities.
- Companies must commit to hiring job trainees for a portion.
- Reserves a portion for projects that promote energy sovereignty.

# Defining Environmental Justice Communities – HB4093

Creates the first definition of environmental justice in the Illinois Environmental Protection Act.

- Sec. 3.187. Environmental justice community. "Environmental justice community" has the same meaning, based on existing methodologies and findings, used in the Illinois Solar for All Program, as may be updated by the Illinois Power Agency and the Program Administrator of that Program.

<https://www.illinoissfa.com/environmental-justice-communities/>



The screenshot shows the website for the Illinois Solar for All program. The navigation bar includes links for "For Illinois Residents", "For Vendors", "Programs", "Job Training", "Grassroots Education", "Environmental Justice Communities", and "Consumers". The main content area is titled "Accessing the benefits of Illinois Solar for All" and contains the following text: "Use this address lookup tool to see if your community or property resides in an identified environmental justice community. Ready to designate your community? Click below to submit an application for review by the Program Administrator." Below the text are two yellow buttons: "Address Lookup" and "Apply to Designate Your Community". To the right of the text is a map of Illinois with labels for "WA", "ILLINOIS", and "MISSOURI". The map also shows "Mark Twain National Forest" and "Shawnee National Forest".

- The US EPA tool is called EJ SCREEN.<sup>593</sup> It uses standard and nationally-consistent data to identify communities with greater risk of exposure to pollution based on 11 environmental indicators that measure potential exposure, hazard/risk and proximity, including traffic proximity, particulate matter, and proximity to superfund sites.
- These indicators are combined with demographic data from the Census Bureau, enabling users to identify areas with minority or low-income populations who also face potential pollution issues.
- While these tools are useful, they do not holistically address all aspects of environmental justice. For example, EJ SCREEN evaluates individual environmental indicators but does not look at cumulative impacts.
- The most rigorous tool for analyzing impacted communities is the California Communities Environmental Health Screening Tool (CalEnviroScreen) from the California Office of Environmental Health Hazard Assessment (OEHHA).<sup>594</sup> CalEnviroScreen compiles data on 12 indicators of pollution burden and 8 population characteristics collected at the Census tract level. It then weights certain factors to develop a score for each area. High scoring areas are then considered eligible for a number of state policies, including disposition of some of the revenues from the state cap-and-trade program created under Assembly Bill 32.

**Table 8-10: Summary of CalEnviroScreen 3.0 Identification Methodology**

<b>Pollution Burden</b>	<b>Population Characteristics</b>
<i><b>Exposures</b></i>	<i><b>Sensitive populations</b></i>
Ozone Concentrations PM2.5 Concentrations Diesel PM Emissions Drinking Water Contaminants Pesticide Use Toxic Releases from Facilities Traffic Density	Asthma Emergency Department Visits Low Birth Weight Infants Cardiovascular disease (emergency department visits for heart attacks)
<i><b>Environmental effects</b></i>	<i><b>Socio-economic indicators*</b></i>
Cleanup Sites Groundwater Threats Hazardous Waste Impaired Water Bodies Solid Waste Sites and Facilities	Educational Attainment Housing burdened low income households Linguistic Isolation Poverty Unemployment

Source: OEHHA. \* California law prohibits the use of race as a factor in CalEnviroScreen.

# Same as USEPA

- National-Scale Air Toxics Assessment (NATA) air toxics cancer risk
- NATA respiratory hazard index
- NATA diesel PM
- Particulate matter
- Ozone
- Traffic proximity and volume
- Lead paint indicator
- Proximity to Risk Management Plan sites
- Proximity to Hazardous Waste Treatment, Storage and Disposal Facilities
- Proximity to National Priorities List sites
- Wastewater Dischargers Indicator

The following demographic indicators are also used by EJ SCREEN and were incorporated into the Agency's methodology:

# ISFA specific EJ criteria

Sensitive Population Characteristics from the Illinois Department of Public Health:

- Asthma Emergency Department Visits
- Low Birth Weight Infants

Environmental indicators from the Illinois Environmental Protection Agency:

- Drinking Water Watch
- Site remediation program
- Leaking Underground Storage Tank Incident Tracking
- State Response Action Program
- Solid Waste Facilities

Using the eleven environmental and six demographic factors listed at the top of this Section 8.15.2, the Agency then weighted each factor using an approach adapted from CalEnviroScreen: census block groups were ranked for each environmental and demographic indicator, a resulting percentile score determined for each census block group within each indicator, and the percentile scores averaged, resulting in an environmental score and a demographic score for each census block group. The two averages were then multiplied together to determine a single Environmental Justice score for each census block group.

# **Restore. Reinvest. Renew. Areas**

- **Highest rates of gun injury**
- **Highest rates of unemployment**
- **Highest child poverty rates**
- **Highest rates of commitments to and returns from the Illinois Department of Corrections**
- **High need, underserved, disproportionately impacted by historical economic disinvestment**

# Examples of conditions for environmental justice communities

From <https://www.illinoissfa.com/environmental-justice-communities/>

## Exposure indicators

- Based on measurements of different types of pollution that people may face. For example, a local newspaper reports on concerns over high levels of toxic releases from a nearby facility.

## Environmental effects indicators

- Based on the locations of toxic chemicals in or near communities. For example, the designator and community members live within close proximity to a cleanup site that has not been documented in an IEPA database.

## Sensitive population indicators

- Measure then number of people in a community who may be more severely affected by pollution because of their age or health. For example, 500 Cities data indicates that in recent years, COPD prevalence is higher than the state average for census tracts in the designator's community.

## Socioeconomic factor indicators

- Conditions that may increase people's stress or make healthy living difficult and cause them to be more sensitive to pollution's effects. For example, the designator's community experiences an affordable housing crisis, and local activists hold a protest.

# Self Designation Process

Environmental Justice Self-Designation Form

Part A: Basic Information

1. Name of Designator
2. Designator affiliation
3. Designator contact information a. Email b. Phone number
4. Additional organizations/individuals supporting Designator a. Letters of support from additional organizations or individuals may be provided, but are not required to complete the process
5. Name of community proposed for designation
6. Geographic limits of proposed community a. Street boundaries, rural highways, county lines, or similar
7. List the Census Block Groups within proposed community limits
  - a. Use the Environmental Justice Map as a guide Please provide a brief explanation of why you believe the territory you have identified is a cohesive community for the purposes of receiving an Environmental Justice Community designation under Illinois Solar for All. Your answer may draw from history, culture, economics, geography, or other considerations you deem relevant. (maximum 500 words)

# Self Designation Process

Qualitative indication of Environmental Justice Community designation need might include:

- Historical events (e.g. fire, housing crisis)
- Environmental disasters and/or severe weather events
- Plant (e.g. manufacturing, fossil generation) openings/closures/operations
- Economics (e.g. mass migrations, businesses closing, mortgage crisis)
- Community Toxicity & Poor Health (e.g. number of dialysis facilities, number of abandoned gas stations and/or homes, lead exposure in children)
- Resource Starvation (e.g. lack of access to fresh food, limited access to infrastructure, mass incarceration levels, criminal justice, access to affordable and public housing, and homelessness rates)

# McKinley Park, Chicago

The MAT Asphalt plant operates next to a school and a major public park, less than 1,000 feet from the nearest homes. The plant has drawn hundreds of complaints from neighbors and multiple citations for air pollution, failure to control windborne material, and operating equipment without a permit. Owned by a politically connected city contractor, MAT Asphalt opened with no community input or warning in 2018 and has operated on an expired construction permit since 2019, while IEPA considers issuing a long-term permit. Records also show that IEPA and the Chicago Department of Public Health have neglected to conduct proper environmental justice or emissions reviews.

# Southeast Side, Chicago

A massive industrial metal shredder set to open in this already overburdened, majority-Latinx neighborhood, which in recent years has had to fight for the removal of petcoke, manganese, and other hazardous materials. The proposed site 2021 is within blocks of residential areas, schools, parks, and the Calumet River. RMG, the facility's owner, has a track record of environmental violations at the city, state, and federal levels, including from its notorious General Iron facility, which was recently shuttered in the wealthy, majority white Lincoln Park neighborhood. The Illinois EPA and Chicago Department of Public Health have both approved key permits for the facility despite the overwhelming opposition and fear expressed by community members during public comment periods. The IEPA has claimed that its decision could not factor in the community opposition, RMG's history as a bad actor, or the cumulative pollution burden in the Southeast Side—despite the agency classifying this as an “environmental justice” area.

# Little Village, Chicago

Hilco Redevelopment Partners plans to build a one million square foot warehouse on the former site of the Crawford Coal Plant. The facility would bring a huge increase in heavy-duty diesel truck traffic, and exhaust and dust pollution, to a neighborhood already facing some of the state's highest rates of asthma and other respiratory illnesses. The Little Village Environmental Justice Organization (LVEJO) and community partners spent years fighting to shut down the coal plant. They deserve a just transition of the site led by community groups. Instead, the city is replacing one dangerous polluter with another—even voting to approve a nearly \$20 million tax subsidy for Hilco. The company and the city have continued to neglect Little Village's wellbeing, as most clearly demonstrated by the botched demolition of the old Crawford Plant smokestacks in April 2020—conducted without warning or proper dust mitigation—which engulfed the neighborhood in enormous amounts of dirt, asbestos, and other particulate matter.

# Linguistic Isolation

Requires translation services automatically be provided at public hearings in areas of linguistic isolation.

- Sec. 3.281. Linguistic isolation. "Linguistic isolation" means a household in which all members age 14 years and older speak a non-English language and speak English less than very well, according to the United States Census Bureau's latest one-year or 5-year American Community Survey. A community surrounding a facility is in linguistic isolation if 20% of the households in the community's surrounding one-mile radius meet the United States Census Bureau's definition for linguistic isolation.
- Automatic requirements for notices to be provided in the non-English language and also for translation services at hearings.

# Local Siting Process

- Requires that large air pollution facilities go through a local siting process that is similar to the process used for landfills and other large polluting waste facilities, increasing the ability for communities to weigh in on large air permitters.

415 ILCS 5/39

- No permit for the development or construction of any of the following will be granted by the Agency unless the applicant submits proof to the Agency that the location of the source has been approved by the county board of the county, if in an unincorporated area, or the governing body of a municipality, when in an incorporated area, in which the source is to be located in accordance with Section 39.2: (i) a new or modified source that, upon issuance of the requested construction permit, will become a major source subject to Section 39.5 to be located in an environmental justice community; or (ii) a new source that has or will require a federally enforceable State operating permit and that will be located in an environmental justice community. For purposes of this subsection (c), and for purposes of Section 39.2, the appropriate county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the source is to be located as of the date when the application for siting approval is filed. This provision does not apply to permits for modifications or expansions at existing FESOP or CAAPP sources unless the modification will result in an increase in the hourly rate of emissions or the total annual emissions of any air pollutant.

# Requirement for a public hearing

- 415 ILCS 5/39 (aa) An applicant for a permit for the construction of a new source that will become a major source subject to the Clean Air Act Permit Program under Section 39.5 to be located in an environmental justice community or a new source that has or will require a federally enforceable State operating permit and that will be located in an environmental justice community must conduct a public meeting prior to submission of the permit application and must submit with the permit application an environmental justice assessment identifying the potential environmental and health impacts according to subsection (aa) to the area associated with the proposed project. This subsection (z) also applies to permit applications for modifications or expansions to existing sources that will result in an increase in the hourly rate of emissions or the total annual emissions of any air pollutant.

# Cumulative Impact Analysis

Requires applicants for large air pollution facilities to hold public hearings in environmental justice communities and conduct a cumulative impact review of air pollution.

- (A) A qualitative and quantitative assessment of emissions-related impacts to the area from the project, including identifying the maximum allowable emissions of criteria pollutants and hazardous air pollutant emissions to be anticipated from the proposed new source.
- (B) An assessment of the health-based indicators for inhalation exposure, including, but not limited to, impacts to the respiratory, hematological, neurological, cardiovascular, renal, and hepatic systems and cancer rates.

If the environmental justice assessment shows that the proposed project will cause harm to the environment or public health, the Agency shall impose conditions in the permit that will mitigate such harm or deny the permit if such harm is unavoidable and causes or contributes to disproportionate harm.

# Standing

- Gives community members standing to challenge more permitting decisions by the IEPA.

415 ILCS 5/40(h) If the Agency grants a permit to construct, modify, or operate a facility that emits air pollutants and is classified as a minor source, a third party, other than the permit applicant or Agency, may, within 35 days after the date on which the Agency issued its decision, petition the Board for a hearing to contest the issuance of the permit. Unless the Board determines that such petition is duplicative or frivolous or that the petitioner is so located as to not be affected by the permitted facility, the Board shall hear the petition in accordance with the terms of subsection (a) of this Section and its procedural rules governing denial appeals. The hearing shall be based exclusively on the record before the Agency. The burden of proof shall be on the petitioner. The Agency and the permit applicant shall be named co-respondents.

# Prior Compliance

- (1) repeated violations of federal, State, or local laws, rules, regulations, standards, or ordinances in the ownership or operation of sources of air pollution;

415 ILCS 5/39(a)

In making its determinations on permit applications under this Section the Agency shall ~~may~~ consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment.

# Grievance for Civil Rights Violations

- Codifies a process for protected classes to file a grievance for civil rights violations regarding environmental pollution.

(415 ILCS 5/40.4 new) Sec. 40.4. Environmental justice grievance. (a) An environmental justice grievance process, subject to the provisions of this Section, applies to complaints alleging violations of Section 601 of the federal Civil Rights Act of 1964. (b) An environmental justice grievance must allege discrimination on the basis of an individual's actual or perceived race, color, religion, national origin, citizenship, ancestry, age, sex, marital status, order of protection status, conviction record, arrest record, disability, military status, sexual orientation, gender identity, gender expression, pregnancy, or unfavorable discharge from military service.

# Project Bank

- Creates a project bank in environmental justice communities for those that have violated pollution laws to ensure that projects are guided by the community.

415 ILCS 5/34.5 new

(a) The Agency shall establish and maintain on its website a bank of potential environmentally beneficial projects. The website must permit members of the public to submit suggestions for environmentally beneficial projects. The Agency shall assess the submissions for feasibility and clarity before inclusion in the bank.

**Thank you for  
supporting IEC!**

***Building power for people and the  
environment.***

