



Sen. David Koehler

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10000HB3342sam002

LRB100 08528 MJP 40203 a

1 AMENDMENT TO HOUSE BILL 3342

2 AMENDMENT NO. _____. Amend House Bill 3342 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 21.1, 22.51, 22.51a, 30, 31, 31.1, 39, and 42
6 and by adding Section 58.19 as follows:

7 (415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

8 Sec. 21.1. (a) Except as provided in subsection (a.5), no
9 person other than the State of Illinois, its agencies and
10 institutions, or a unit of local government shall own or
11 operate a MSWLF unit or other waste disposal operation on or
12 after March 1, 1985, which requires a permit under subsection
13 (d) of Section 21 of this Act, unless such person has posted
14 with the Agency a performance bond or other security for the
15 purpose of insuring closure of the site and post-closure care
16 in accordance with this Act and regulations adopted thereunder.

1 (a.5) On and after the effective date established by the
2 United States Environmental Protection Agency for MSWLF units
3 to provide financial assurance under Subtitle D of the Resource
4 Conservation and Recovery Act, no person, other than the State
5 of Illinois, its agencies and institutions, shall own or
6 operate a MSWLF unit that requires a permit under subsection
7 (d) of Section 21 of this Act, unless that person has posted
8 with the Agency a performance bond or other security for the
9 purposes of:

10 (1) insuring closure of the site and post-closure care
11 in accordance with this Act and its rules; and

12 (2) insuring completion of a corrective action remedy
13 when required by Board rules adopted under Section 22.40 of
14 this Act or when required by Section 22.41 of this Act.

15 The performance bond or other security requirement set
16 forth in this Section may be fulfilled by closure or
17 post-closure insurance, or both, issued by an insurer licensed
18 to transact the business of insurance by the Department of
19 Insurance or at a minimum the insurer must be licensed to
20 transact the business of insurance or approved to provide
21 insurance as an excess or surplus lines insurer by the
22 insurance department in one or more states.

23 (b) On or before January 1, 1985, the Board shall adopt
24 regulations to promote the purposes of this Section. Without
25 limiting the generality of this authority, such regulations
26 may, among other things, prescribe the type and amount of the

1 performance bonds or other securities required under
2 subsections (a) and (a.5) of this Section, and the conditions
3 under which the State is entitled to collect monies from such
4 performance bonds or other securities. The bond amount shall be
5 directly related to the design and volume of the site. The cost
6 estimate for the post-closure care of a MSWLF unit shall be
7 calculated using a 30 year post-closure care period or such
8 other period as may be approved by the Agency under Board or
9 federal rules. On and after the effective date established by
10 the United States Environmental Protection Agency for MSWLF
11 units to provide financial assurance under Subtitle D of the
12 Resource Conservation and Recovery Act, closure, post-closure
13 care, and corrective action cost estimates for MSWLF units
14 shall be in current dollars.

15 (c) There is hereby created within the State Treasury a
16 special fund to be known as the "Landfill Closure and
17 Post-Closure Fund". Any monies forfeited to the State of
18 Illinois from any performance bond or other security required
19 under this Section or under Section 22.51 shall be placed in
20 the "Landfill Closure and Post-Closure Fund" and shall, upon
21 approval by the Governor and the Director, be used by and under
22 the direction of the Agency for the purposes for which such
23 performance bond or other security was issued. The Landfill
24 Closure and Post-Closure Fund is not subject to the provisions
25 of subsection (c) of Section 5 of the State Finance Act.

26 (d) The Agency is authorized to enter into such contracts

1 and agreements as it may deem necessary to carry out the
2 purposes of this Section. Neither the State, nor the Director,
3 nor any State employee shall be liable for any damages or
4 injuries arising out of or resulting from any action taken
5 under this Section.

6 (e) The Agency shall have the authority to approve or
7 disapprove any performance bond or other security posted
8 pursuant to subsection (a) or (a.5) of this Section. Any person
9 whose performance bond or other security is disapproved by the
10 Agency may contest the disapproval as a permit denial appeal
11 pursuant to Section 40 of this Act.

12 (f) The Agency may establish such procedures as it may deem
13 necessary for the purpose of implementing and executing its
14 responsibilities under this Section.

15 (g) Nothing in this Section shall bar a cause of action by
16 the State for any other penalty or relief provided by this Act
17 or any other law.

18 (Source: P.A. 97-887, eff. 8-2-12.)

19 (415 ILCS 5/22.51)

20 Sec. 22.51. Clean Construction or Demolition Debris Fill
21 Operations.

22 (a) As used in this Section:

23 "Clean construction or demolition debris" has the
24 meaning provided in Section 3.160 of this Act.

25 "Clean construction or demolition debris fill

1 operation" means a current or former quarry, mine, or other
2 excavation where clean construction or demolition debris
3 is used as fill material.

4 "Operator" means a person responsible for the
5 operation and maintenance of a clean construction or
6 demolition debris fill operation.

7 "Owner" means a person who has any direct or indirect
8 interest in a clean construction or demolition debris fill
9 operation or in land on which a person operates and
10 maintains a clean construction or demolition debris fill
11 operation. A "direct or indirect interest" does not include
12 the ownership of publicly traded stock. The "owner" is the
13 "operator" if there is no other person who is operating and
14 maintaining a clean construction or demolition debris fill
15 operation.

16 "Uncontaminated soil" has the meaning provided in
17 Section 3.160 of this Act.

18 (a-5) No person shall:

19 (1) conduct any clean construction or demolition
20 debris fill operation in violation of this Act or any
21 regulations or standards adopted by the Board;

22 (2) use soil other than uncontaminated soil as fill
23 material at a clean construction or demolition debris fill
24 operation;

25 (3) use construction or demolition debris other than
26 clean construction or demolition debris as fill material at

1 a clean construction or demolition debris fill operation;

2 or

3 (4) locate any clean construction or demolition debris
4 fill operation within the setback zone of a potable water
5 supply well.

6 (b) (Blank). ~~(1) (A) Beginning August 18, 2005 but prior to~~
7 ~~July 1, 2008, no person shall use clean construction or~~
8 ~~demolition debris as fill material in a current or former~~
9 ~~quarry, mine, or other excavation, unless they have applied for~~
10 ~~an interim authorization from the Agency for the clean~~
11 ~~construction or demolition debris fill operation.~~

12 ~~(B) The Agency shall approve an interim authorization upon~~
13 ~~its receipt of a written application for the interim~~
14 ~~authorization that is signed by the site owner and the site~~
15 ~~operator, or their duly authorized agent, and that contains the~~
16 ~~following information: (i) the location of the site where the~~
17 ~~clean construction or demolition debris fill operation is~~
18 ~~taking place, (ii) the name and address of the site owner,~~
19 ~~(iii) the name and address of the site operator, and (iv) the~~
20 ~~types and amounts of clean construction or demolition debris~~
21 ~~being used as fill material at the site.~~

22 ~~(C) The Agency may deny an interim authorization if the~~
23 ~~site owner or the site operator, or their duly authorized~~
24 ~~agent, fails to provide to the Agency the information listed in~~
25 ~~subsection (b) (1) (B) of this Section. Any denial of an interim~~
26 ~~authorization shall be subject to appeal to the Board in~~

1 ~~accordance with the procedures of Section 40 of this Act.~~

2 ~~(D) No person shall use clean construction or demolition~~
3 ~~debris as fill material in a current or former quarry, mine, or~~
4 ~~other excavation for which the Agency has denied interim~~
5 ~~authorization under subsection (b) (1) (C) of this Section. The~~
6 ~~Board may stay the prohibition of this subsection (D) during~~
7 ~~the pendency of an appeal of the Agency's denial of the interim~~
8 ~~authorization brought under subsection (b) (1) (C) of this~~
9 ~~Section.~~

10 ~~(2) Beginning September 1, 2006, owners and operators of~~
11 ~~clean construction or demolition debris fill operations shall,~~
12 ~~in accordance with a schedule prescribed by the Agency, submit~~
13 ~~to the Agency applications for the permits required under this~~
14 ~~Section. The Agency shall notify owners and operators in~~
15 ~~writing of the due date for their permit application. The due~~
16 ~~date shall be no less than 90 days after the date of the~~
17 ~~Agency's written notification. Owners and operators who do not~~
18 ~~receive a written notification from the Agency by October 1,~~
19 ~~2007, shall submit a permit application to the Agency by~~
20 ~~January 1, 2008. The interim authorization of owners and~~
21 ~~operators who fail to submit a permit application to the Agency~~
22 ~~by the permit application's due date shall terminate on (i) the~~
23 ~~due date established by the Agency if the owner or operator~~
24 ~~received a written notification from the Agency prior to~~
25 ~~October 1, 2007, or (ii) or January 1, 2008, if the owner or~~
26 ~~operator did not receive a written notification from the Agency~~

1 ~~by October 1, 2007.~~

2 (b-5) No ~~(3) On and after July 1, 2008, no~~ person shall use
3 clean construction or demolition debris as fill material in a
4 current or former quarry, mine, or other excavation (i) without
5 a permit granted by the Agency for the clean construction or
6 demolition debris fill operation or in violation of any
7 conditions imposed by such permit, including periodic reports
8 and full access to adequate records and the inspection of
9 facilities, as may be necessary to assure compliance with this
10 Act and with Board regulations and standards adopted under this
11 Act or (ii) in violation of any regulations or standards
12 adopted by the Board under this Act.

13 ~~(4) This subsection (b) does not apply to:~~

14 ~~(A) the use of clean construction or demolition debris~~
15 ~~as fill material in a current or former quarry, mine, or~~
16 ~~other excavation located on the site where the clean~~
17 ~~construction or demolition debris was generated;~~

18 ~~(B) the use of clean construction or demolition debris~~
19 ~~as fill material in an excavation other than a current or~~
20 ~~former quarry or mine if this use complies with Illinois~~
21 ~~Department of Transportation specifications; or~~

22 ~~(C) current or former quarries, mines, and other~~
23 ~~excavations that do not use clean construction or~~
24 ~~demolition debris as fill material.~~

25 (c) In accordance with Title VII of this Act, the Board may
26 adopt regulations to promote the purposes of this Section. The

1 Agency shall consult with the mining and construction
2 industries during the development of any regulations to promote
3 the purposes of this Section.

4 (c-5) ~~(1)~~ No later than December 15, 2005, the Agency shall
5 propose to the Board, and no later than September 1, 2006, the
6 Board shall adopt, regulations for the use of clean
7 construction or demolition debris as fill material in current
8 and former quarries, mines, and other excavations. Such
9 regulations shall include, but shall not be limited to,
10 standards for clean construction or demolition debris fill
11 operations and the submission and review of permits required
12 under this Section.

13 ~~(2) Until the Board adopts rules under subsection~~
14 ~~(c)(1) of this Section, all persons using clean~~
15 ~~construction or demolition debris as fill material in a~~
16 ~~current or former quarry, mine, or other excavation shall:~~

17 ~~(A) Assure that only clean construction or~~
18 ~~demolition debris is being used as fill material by~~
19 ~~screening each truckload of material received using a~~
20 ~~device approved by the Agency that detects volatile~~
21 ~~organic compounds. Such devices may include, but are~~
22 ~~not limited to, photo ionization detectors. All~~
23 ~~screening devices shall be operated and maintained in~~
24 ~~accordance with manufacturer's specifications.~~
25 ~~Unacceptable fill material shall be rejected from the~~
26 ~~site; and~~

1 ~~(B) Retain for a minimum of 3 years the following~~
2 ~~information:~~

3 ~~(i) The name of the hauler, the name of the~~
4 ~~generator, and place of origin of the debris or~~
5 ~~soil;~~

6 ~~(ii) The approximate weight or volume of the~~
7 ~~debris or soil; and~~

8 ~~(iii) The date the debris or soil was received.~~

9 (d) This Section applies only to clean construction or
10 demolition debris that is not considered "waste" as provided in
11 Section 3.160 of this Act.

12 (e) (Blank). ~~For purposes of this Section:~~

13 ~~(1) The term "operator" means a person responsible for~~
14 ~~the operation and maintenance of a clean construction or~~
15 ~~demolition debris fill operation.~~

16 ~~(2) The term "owner" means a person who has any direct~~
17 ~~or indirect interest in a clean construction or demolition~~
18 ~~debris fill operation or in land on which a person operates~~
19 ~~and maintains a clean construction or demolition debris~~
20 ~~fill operation. A "direct or indirect interest" does not~~
21 ~~include the ownership of publicly traded stock. The "owner"~~
22 ~~is the "operator" if there is no other person who is~~
23 ~~operating and maintaining a clean construction or~~
24 ~~demolition debris fill operation.~~

25 ~~(3) The term "clean construction or demolition debris~~
26 ~~fill operation" means a current or former quarry, mine, or~~

1 ~~other excavation where clean construction or demolition~~
2 ~~debris is used as fill material.~~

3 ~~(4) The term "uncontaminated soil" shall have the same~~
4 ~~meaning as uncontaminated soil under Section 3.160 of this~~
5 ~~Act.~~

6 (f) ~~(1)~~ No later than one year after July 30, 2010 (the
7 effective date of Public Act 96-1416) ~~this amendatory Act of~~
8 ~~the 96th General Assembly~~, the Agency shall propose to the
9 Board, and, no later than one year after the Board's receipt of
10 the Agency's proposal, the Board shall adopt, rules for the use
11 of clean construction or demolition debris and uncontaminated
12 soil as fill material at clean construction or demolition
13 debris fill operations. The rules must include standards and
14 procedures necessary to protect groundwater, which may
15 include, but shall not be limited to, the following:
16 requirements regarding testing and certification of soil used
17 as fill material, surface water runoff, liners or other
18 protective barriers, monitoring (including, but not limited
19 to, groundwater monitoring), corrective action, recordkeeping,
20 reporting, closure and post-closure care, financial assurance,
21 post-closure land use controls, location standards, and the
22 modification of existing permits to conform to the requirements
23 of this Act and Board rules. The rules may also include limits
24 on the use of recyclable concrete and asphalt as fill material
25 at clean construction or demolition debris fill operations,
26 taking into account factors such as technical feasibility,

1 economic reasonableness, and the availability of markets for
2 such materials.

3 (2) (Blank). ~~Until the effective date of the Board rules~~
4 ~~adopted under subdivision (f) (1) of this Section, and in~~
5 ~~addition to any other requirements, owners and operators of~~
6 ~~clean construction or demolition debris fill operations must do~~
7 ~~all of the following in subdivisions (f) (2) (A) through~~
8 ~~(f) (2) (D) of this Section for all clean construction or~~
9 ~~demolition debris and uncontaminated soil accepted for use as~~
10 ~~fill material. The requirements in subdivisions (f) (2) (A)~~
11 ~~through (f) (2) (D) of this Section shall not limit any rules~~
12 ~~adopted by the Board.~~

13 ~~(A) Document the following information for each load of~~
14 ~~clean construction or demolition debris or uncontaminated~~
15 ~~soil received: (i) the name of the hauler, the address of~~
16 ~~the site of origin, and the owner and the operator of the~~
17 ~~site of origin of the clean construction or demolition~~
18 ~~debris or uncontaminated soil, (ii) the weight or volume of~~
19 ~~the clean construction or demolition debris or~~
20 ~~uncontaminated soil, and (iii) the date the clean~~
21 ~~construction or demolition debris or uncontaminated soil~~
22 ~~was received.~~

23 ~~(B) For all soil, obtain either (i) a certification~~
24 ~~from the owner or operator of the site from which the soil~~
25 ~~was removed that the site has never been used for~~
26 ~~commercial or industrial purposes and is presumed to be~~

1 ~~uncontaminated soil or (ii) a certification from a licensed~~
2 ~~Professional Engineer or licensed Professional Geologist~~
3 ~~that the soil is uncontaminated soil. Certifications~~
4 ~~required under this subdivision (f)(2)(B) must be on forms~~
5 ~~and in a format prescribed by the Agency.~~

6 ~~(C) Confirm that the clean construction or demolition~~
7 ~~debris or uncontaminated soil was not removed from a site~~
8 ~~as part of a cleanup or removal of contaminants, including,~~
9 ~~but not limited to, activities conducted under the~~
10 ~~Comprehensive Environmental Response, Compensation, and~~
11 ~~Liability Act of 1980, as amended; as part of a Closure or~~
12 ~~Corrective Action under the Resource Conservation and~~
13 ~~Recovery Act, as amended; or under an Agency remediation~~
14 ~~program, such as the Leaking Underground Storage Tank~~
15 ~~Program or Site Remediation Program, but excluding sites~~
16 ~~subject to Section 58.16 of this Act where there is no~~
17 ~~presence or likely presence of a release or a substantial~~
18 ~~threat of a release of a regulated substance at, on, or~~
19 ~~from the real property.~~

20 ~~(D) Document all activities required under subdivision~~
21 ~~(f)(2) of this Section. Documentation of any chemical~~
22 ~~analysis must include, but is not limited to, (i) a copy of~~
23 ~~the lab analysis, (ii) accreditation status of the~~
24 ~~laboratory performing the analysis, and (iii)~~
25 ~~certification by an authorized agent of the laboratory that~~
26 ~~the analysis has been performed in accordance with the~~

1 ~~Agency's rules for the accreditation of environmental~~
2 ~~laboratories and the scope of accreditation.~~

3 (3) (Blank). ~~Owners and operators of clean construction or~~
4 ~~demolition debris fill operations must maintain all~~
5 ~~documentation required under subdivision (f)(2) of this~~
6 ~~Section for a minimum of 3 years following the receipt of each~~
7 ~~load of clean construction or demolition debris or~~
8 ~~uncontaminated soil, except that documentation relating to an~~
9 ~~appeal, litigation, or other disputed claim must be maintained~~
10 ~~until at least 3 years after the date of the final disposition~~
11 ~~of the appeal, litigation, or other disputed claim. Copies of~~
12 ~~the documentation must be made available to the Agency and to~~
13 ~~units of local government for inspection and copying during~~
14 ~~normal business hours. The Agency may prescribe forms and~~
15 ~~formats for the documentation required under subdivision~~
16 ~~(f)(2) of this Section.~~

17 ~~Chemical analysis conducted under subdivision (f)(2) of~~
18 ~~this Section must be conducted in accordance with the~~
19 ~~requirements of 35 Ill. Adm. Code 742, as amended, and "Test~~
20 ~~Methods for Evaluating Solid Waste, Physical/Chemical~~
21 ~~Methods", USEPA Publication No. SW-846, as amended.~~

22 (g) (Blank). ~~(1) No person shall use soil other than~~
23 ~~uncontaminated soil as fill material at a clean construction or~~
24 ~~demolition debris fill operation.~~

25 ~~(2) No person shall use construction or demolition debris~~
26 ~~other than clean construction or demolition debris as fill~~

1 ~~material at a clean construction or demolition debris fill~~
2 ~~operation.~~

3 (h) No later than January 1, 2019, the Agency shall propose
4 to the Board for adoption, and, no later than one year after
5 receipt of the Agency's proposal, the Board shall adopt rules
6 to protect public health and the environment from any threats
7 posed by clean construction or demolition debris fill
8 operations. The rules adopted under this subsection shall
9 include, but not be limited to, rules that establish enhanced
10 pre-acceptance and post-acceptance sampling protocols for
11 clean construction and demolition debris fill operations, as
12 described in paragraphs (1) and (2) of this subsection, and
13 rules that allow owners and operators to transfer a portion of
14 a permitted clean construction or demolition debris fill
15 operation site to another person before termination of the
16 permit, as described in paragraph (3) of this subsection. The
17 Agency shall also propose to the Board for adoption rules that
18 establish the monitoring of NPDES permitted discharges from
19 clean construction or demolition debris sites as described in
20 paragraph (4) of this subsection.

21 (1) The pre-acceptance sampling protocols adopted by
22 the Board under this subsection shall include, but not be
23 limited to, provisions requiring the owner or operator to
24 obtain, for all soil accepted for use as fill at the clean
25 construction or demolition debris fill operation, a
26 certification from a professional engineer licensed under

1 the Professional Engineering Practice Act of 1989 or a
2 licensed professional geologist licensed under the
3 Professional Geologist Licensing Act that the soil is
4 uncontaminated soil. The certification required under this
5 subsection must be based on analytical testing of at least
6 one representative soil sample for each volume of soil that
7 the Board determines must be sampled in order to
8 characterize the soil being accepted for use as fill. The
9 Board may provide exemptions from pre-acceptance sampling
10 protocols required under this subsection for small volumes
11 of soil generated at a site upon which a residence is
12 located, provided that there is no historical or current
13 use of the site, or potential contaminant migration from a
14 proximate site, that increases the presence or potential
15 presence of contamination at the site.

16 (2) The post-acceptance sampling protocols adopted by
17 the Board under this subsection shall include, but not be
18 limited to, provisions requiring the owner or operator to
19 perform, for all soil accepted for use as fill,
20 post-acceptance sampling in accordance with a plan
21 approved by the Agency. At a minimum, the Agency-approved
22 plan required under this subsection must provide for the
23 analytical testing of at least one representative soil
24 sample for each volume of soil that the Board determines
25 must be sampled to characterize the soil being accepted for
26 use as fill. If the analytical testing indicates that any

1 of the soil accepted for use as fill is not uncontaminated
2 soil, the owner or operator shall conduct additional
3 investigation and identify, remove, and properly dispose
4 of all soil that is not uncontaminated soil.

5 (3) The rules adopted by the Board under this
6 subsection shall allow owners and operators to transfer a
7 portion of a permitted clean construction or demolition
8 debris fill operation site to another person before
9 termination of the permit, and to have the transferred
10 portion of the site removed from the permit prior to
11 completion of closure and post-closure maintenance,
12 provided that all of the following requirements have been
13 satisfied:

14 (A) The owner or operator files with the Agency:

15 (i) an application to modify the fill
16 operation permit to recognize a change in
17 ownership of the transferred property before
18 completion of closure and post-closure
19 maintenance;

20 (ii) documentation identifying the portion of
21 the site being transferred; and

22 (iii) a copy of the transferee's plans for the
23 portion of the site being transferred that
24 document how the site will be developed,
25 including, but not limited to, plans demonstrating
26 how the closure and post-closure requirements set

1 forth in Board rules will be satisfied.

2 (B) The owner or operator provides the persons to
3 whom the portion of the site will be transferred the
4 results of site assessments conducted in accordance
5 with Board rules.

6 (C) The portion of the site being transferred is
7 filled to within at least 3 feet of the final fill
8 elevation that would otherwise be required under the
9 closure and post-closure maintenance requirements in
10 the permit.

11 (D) If a portion of the site is to be sold,
12 transferred, quitclaimed, or given to any municipal or
13 government body, Phase I and II Environmental Site
14 Assessments must be conducted by the parties at the
15 expense of the site's owner.

16 (E) The owner or operator posts with the Agency a
17 performance bond for purposes of closure and
18 post-closure maintenance of the portion of the site
19 being transferred. The bond shall be directly related
20 to the estimate of the costs for the Agency to
21 remediate the transferred portion of the site to a
22 condition consistent with the closure and post-closure
23 maintenance requirements applicable to the site. The
24 bond required under this subparagraph shall not affect
25 in any way any obligation or liability of any person
26 under this Act or any other State or federal law.

1 (4) The Agency shall propose and the board shall adopt
2 rules to require the testing of discharges conducted under
3 NPDES permits, should a clean construction or demolition
4 debris site have an NPDES permit. These rules shall be
5 constructed to alter site operators and the agency of
6 potential contamination of any body of water, including,
7 but not limited to groundwater.

8 The rules adopted under this subsection shall provide that
9 the person to whom a portion of a permitted clean construction
10 or demolition debris fill operation site is transferred must
11 complete closure and post-closure maintenance for the
12 transferred portion of the site in accordance with Board rules.

13 The rules adopted under this subsection shall also specify
14 the conditions under which the State is entitled to collect
15 moneys from the performance bond required under subparagraph
16 (E) of paragraph (3) of this subsection. Any money forfeited to
17 the State of Illinois from any performance bond required under
18 this subsection shall be deposited into the Landfill Closure
19 and Post-Closure Fund established under Section 21.1 of this
20 Act and shall, upon approval by the Governor and the Director
21 of the Agency, be used by and under the direction of the Agency
22 for the purposes for which the performance bond was issued. The
23 Agency shall have the authority to approve or disapprove any
24 performance bond posted in accordance with the rules adopted
25 under this subsection. If the Agency disapproves a performance
26 bond required under the rules adopted under this subsection,

1 the person whose performance bond is disapproved by the Agency
2 may contest the disapproval in the same manner as the appeal of
3 a permit denial under Section 40 of this Act.

4 The Agency is authorized to enter into contracts and
5 agreements as it may deem necessary to carry out the purposes
6 of this subsection or rules adopted under this subsection.
7 Neither the State, nor the Director of the Agency, nor any
8 State employee shall be liable for any damages or injuries
9 arising out of or resulting from any action taken under this
10 subsection or rules adopted under this subsection.

11 Neither this subsection nor the rules adopted under this
12 subsection shall bar a cause of action by the State for any
13 other penalty or relief provided by this Act or any other law.

14 (i) Neither this Section nor the rules adopted under this
15 Section apply to:

16 (1) the use of clean construction or demolition debris
17 as fill at the site where the clean construction or
18 demolition debris is generated; or

19 (2) the use of clean construction or demolition debris,
20 in accordance with Department of Transportation
21 specifications, by the Department of Transportation, the
22 Illinois State Toll Highway Authority, or a county or local
23 highway authority, except to the extent that the clean
24 construction or demolition debris is used as fill material
25 in a privately-owned or privately-operated clean
26 construction or demolition debris fill operation.

1 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

2 (415 ILCS 5/22.51a)

3 Sec. 22.51a. Uncontaminated Soil Fill Operations.

4 (a) For purposes of this Section:

5 "Operator" means a person responsible for the
6 operation and maintenance of an uncontaminated soil fill
7 operation.

8 "Owner" means a person who has any direct or indirect
9 interest in an uncontaminated soil fill operation or in
10 land on which a person operates and maintains an
11 uncontaminated soil fill operation. A "direct or indirect
12 interest" does not include the ownership of publicly traded
13 stock. The "owner" is the "operator" if there is no other
14 person who is operating and maintaining an uncontaminated
15 soil fill operation.

16 "Uncontaminated soil" has the meaning provided ~~(1) The~~
17 ~~term "uncontaminated soil" shall have the same meaning as~~
18 ~~uncontaminated soil~~ under Section 3.160 of this Act.

19 "Uncontaminated soil fill operation" ~~(2) The term~~
20 ~~"uncontaminated soil fill operation"~~ means a current or
21 former quarry, mine, or other excavation where
22 uncontaminated soil is used as fill material.
23 "Uncontaminated soil fill operation" ~~, but~~ does not include
24 a clean construction or demolition debris fill operation.

25 (b) No person shall:

1 (1) conduct any uncontaminated soil fill operation in
2 violation of this Act or any rules or standards adopted by
3 the Board;

4 (2) use soil other than uncontaminated soil as fill
5 material at an uncontaminated soil fill operation; or

6 (3) locate any uncontaminated soil fill operation
7 within the setback zone of a potable water supply well.

8 (c) Owners and operators of uncontaminated soil fill
9 operations must register the fill operations with the Agency.
10 Uncontaminated soil fill operations that received
11 uncontaminated soil prior to July 30, 2010 (the effective date
12 of Public Act 96-1416) ~~this amendatory Act of the 96th General~~
13 ~~Assembly~~ must be registered with the Agency no later than March
14 31, 2011. Uncontaminated soil fill operations that first
15 receive uncontaminated soil on or after July 30, 2010 (the
16 effective date of Public Act 96-1416) ~~this amendatory Act of~~
17 ~~the 96th General Assembly~~ must be registered with the Agency
18 prior to the receipt of any uncontaminated soil. Registrations
19 must be submitted on forms and in a format prescribed by the
20 Agency.

21 (d) ~~(1)~~ No later than one year after July 30, 2010 (the
22 effective date of Public Act 96-1416) ~~this amendatory Act of~~
23 ~~the 96th General Assembly~~, the Agency shall propose to the
24 Board, and, no later than one year after the Board's receipt of
25 the Agency's proposal, the Board shall adopt, rules for the use
26 of uncontaminated soil as fill material at uncontaminated soil

1 fill operations. The rules must include standards and
2 procedures necessary to protect groundwater, which shall
3 include, but shall not be limited to, testing and certification
4 of soil used as fill material and requirements for
5 recordkeeping.

6 (2) (Blank). ~~Until the effective date of the Board rules~~
7 ~~adopted under subdivision (d) (1) of this Section, owners and~~
8 ~~operators of uncontaminated soil fill operations must do all of~~
9 ~~the following in subdivisions (d) (2) (A) through (d) (2) (F) of~~
10 ~~this Section for all uncontaminated soil accepted for use as~~
11 ~~fill material. The requirements in subdivisions (d) (2) (A)~~
12 ~~through (d) (2) (F) of this Section shall not limit any rules~~
13 ~~adopted by the Board.~~

14 ~~(A) Document the following information for each load of~~
15 ~~uncontaminated soil received: (i) the name of the hauler,~~
16 ~~the address of the site of origin, and the owner and the~~
17 ~~operator of the site of origin of the uncontaminated soil,~~
18 ~~(ii) the weight or volume of the uncontaminated soil, and~~
19 ~~(iii) the date the uncontaminated soil was received.~~

20 ~~(B) Obtain either (i) a certification from the owner or~~
21 ~~operator of the site from which the soil was removed that~~
22 ~~the site has never been used for commercial or industrial~~
23 ~~purposes and is presumed to be uncontaminated soil or (ii)~~
24 ~~a certification from a licensed Professional Engineer or a~~
25 ~~licensed Professional Geologist that the soil is~~
26 ~~uncontaminated soil. Certifications required under this~~

1 ~~subdivision (d) (2) (B) must be on forms and in a format~~
2 ~~prescribed by the Agency.~~

3 ~~(C) Confirm that the uncontaminated soil was not~~
4 ~~removed from a site as part of a cleanup or removal of~~
5 ~~contaminants, including, but not limited to, activities~~
6 ~~conducted under the Comprehensive Environmental Response,~~
7 ~~Compensation, and Liability Act of 1980, as amended; as~~
8 ~~part of a Closure or Corrective Action under the Resource~~
9 ~~Conservation and Recovery Act, as amended; or under an~~
10 ~~Agency remediation program, such as the Leaking~~
11 ~~Underground Storage Tank Program or Site Remediation~~
12 ~~Program, but excluding sites subject to Section 58.16 of~~
13 ~~this Act where there is no presence or likely presence of a~~
14 ~~release or a substantial threat of a release of a regulated~~
15 ~~substance at, on, or from the real property.~~

16 ~~(D) Visually inspect each load to confirm that only~~
17 ~~uncontaminated soil is being accepted for use as fill~~
18 ~~material.~~

19 ~~(E) Screen each load of uncontaminated soil using a~~
20 ~~device that is approved by the Agency and detects volatile~~
21 ~~organic compounds. Such a device may include, but is not~~
22 ~~limited to, a photo ionization detector or a flame~~
23 ~~ionization detector. All screening devices shall be~~
24 ~~operated and maintained in accordance with the~~
25 ~~manufacturer's specifications. Unacceptable soil must be~~
26 ~~rejected from the fill operation.~~

1 ~~(F) Document all activities required under subdivision~~
2 ~~(d) (2) of this Section. Documentation of any chemical~~
3 ~~analysis must include, but is not limited to, (i) a copy of~~
4 ~~the lab analysis, (ii) accreditation status of the~~
5 ~~laboratory performing the analysis, and (iii)~~
6 ~~certification by an authorized agent of the laboratory that~~
7 ~~the analysis has been performed in accordance with the~~
8 ~~Agency's rules for the accreditation of environmental~~
9 ~~laboratories and the scope of accreditation.~~

10 (3) (Blank). ~~Owners and operators of uncontaminated soil~~
11 ~~fill operations must maintain all documentation required under~~
12 ~~subdivision (d) (2) of this Section for a minimum of 3 years~~
13 ~~following the receipt of each load of uncontaminated soil,~~
14 ~~except that documentation relating to an appeal, litigation, or~~
15 ~~other disputed claim must be maintained until at least 3 years~~
16 ~~after the date of the final disposition of the appeal,~~
17 ~~litigation, or other disputed claim. Copies of the~~
18 ~~documentation must be made available to the Agency and to units~~
19 ~~of local government for inspection and copying during normal~~
20 ~~business hours. The Agency may prescribe forms and formats for~~
21 ~~the documentation required under subdivision (d) (2) of this~~
22 ~~Section.~~

23 ~~Chemical analysis conducted under subdivision (d) (2) of~~
24 ~~this Section must be conducted in accordance with the~~
25 ~~requirements of 35 Ill. Adm. Code 742, as amended, and "Test~~
26 ~~Methods for Evaluating Solid Waste, Physical/Chemical~~

1 ~~Methods", USEPA Publication No. SW-846, as amended.~~

2 (e) No later than January 1, 2019, the Agency shall propose
3 to the Board for adoption, and, no later than one year after
4 receipt of the Agency's proposal, the Board shall adopt rules
5 to protect public health and the environment from any threats
6 posed by uncontaminated soil fill operations. The rules shall
7 include, but not be limited to, rules that establish enhanced
8 pre-acceptance and post-acceptance sampling protocols for
9 uncontaminated soil fill operations, as described in
10 paragraphs (1) and (2) of this subsection.

11 (1) The pre-acceptance sampling protocols adopted by
12 the Board pursuant to this subsection shall include, but
13 shall not be limited to, provisions requiring the owner or
14 operator to obtain, for all soil accepted for use as fill
15 at the uncontaminated soil fill operation, a certification
16 from a professional engineer licensed under the
17 Professional Engineering Practice Act of 1989 or a licensed
18 professional geologist licensed under the Professional
19 Geologist Licensing Act that the soil is uncontaminated
20 soil. The certification required under this subsection
21 must be based on analytical testing of at least one
22 representative soil sample for each volume of soil that the
23 Board determines must be sampled in order to characterize
24 the soil being accepted for use as fill. The Board may
25 provide exemptions from pre-acceptance sampling protocols
26 required under this subsection for small volumes of soil

1 generated at a site upon which a residence is located,
2 provided that there is no historical or current use of the
3 site, or potential contaminant migration from a proximate
4 site, that increases the presence or potential presence of
5 contamination at the site.

6 (2) The post-acceptance sampling protocols adopted by
7 the Board pursuant to this subsection shall include, but
8 not be limited to, provisions requiring the owner or
9 operator to perform, for all soil accepted for use as fill,
10 post-acceptance sampling in accordance with a plan
11 approved by the Agency. At a minimum, the Agency-approved
12 plan required under this subsection must provide for the
13 analytical testing of at least one representative soil
14 sample for each volume of soil that the Board determines
15 must be sampled to characterize the soil being accepted for
16 use as fill. If the analytical testing indicates that any
17 of the soil accepted for use as fill is not uncontaminated
18 soil, the owner or operator shall conduct additional
19 investigation and identify, remove, and properly dispose
20 of all soil that is not uncontaminated soil.

21 (f) Neither this Section nor the rules adopted under this
22 Section apply to:

23 (1) the use of uncontaminated soil as fill at the site
24 where the uncontaminated soil is generated;

25 (2) the use of uncontaminated soil, in accordance with
26 Department of Transportation specifications, by the

1 Department of Transportation, the Illinois State Toll
2 Highway Authority, or a county or local highway authority,
3 except to the extent that the soil is used as fill material
4 in a privately-owned or privately-operated uncontaminated
5 soil fill operation; or

6 (3) the use of uncontaminated soil at a remediation
7 site in accordance with a remediation plan approved by the
8 Agency or the United States Environmental Protection
9 Agency.

10 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

11 (415 ILCS 5/30) (from Ch. 111 1/2, par. 1030)

12 Sec. 30. Investigations. The Agency shall cause
13 investigations to be made upon the request of the Board, as a
14 result of the Agency's own investigation or knowledge, or upon
15 receipt of information concerning an alleged violation of this
16 Act, any rule or regulation adopted under this Act, any permit
17 or term or condition of a permit, or any Board order, and may
18 cause to be made such other investigations as it shall deem
19 advisable.

20 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

21 (415 ILCS 5/31) (from Ch. 111 1/2, par. 1031)

22 Sec. 31. Notice; complaint; hearing.

23 (a) (1) Within 180 days after becoming aware of an alleged
24 violation of the Act, any rule adopted under the Act, a

1 permit granted by the Agency, or a condition of such a
2 permit, the Agency shall issue and serve, by certified
3 mail, upon the person complained against a written notice
4 informing that person that the Agency has evidence of the
5 alleged violation. At a minimum, the written notice shall
6 contain:

7 (A) a notification to the person complained
8 against of the requirement to submit a written response
9 addressing the violations alleged and the option to
10 meet with appropriate agency personnel to resolve any
11 alleged violations that could lead to the filing of a
12 formal complaint;

13 (B) a detailed explanation by the Agency of the
14 violations alleged;

15 (C) an explanation by the Agency of the actions
16 that the Agency believes may resolve the alleged
17 violations, including an estimate of a reasonable time
18 period for the person complained against to complete
19 the suggested resolution; and

20 (D) an explanation of any alleged violation that
21 the Agency believes cannot be resolved without the
22 involvement of the Office of the Illinois Attorney
23 General or the State's Attorney of the county in which
24 the alleged violation occurred and the basis for the
25 Agency's belief.

26 (2) A written response to the violations alleged shall

1 be submitted to the Agency, by certified mail, within 45
2 days after receipt of notice by the person complained
3 against, unless the Agency agrees to an extension. The
4 written response shall include:

5 (A) information in rebuttal, explanation or
6 justification of each alleged violation;

7 (B) if the person complained against desires to
8 enter into a Compliance Commitment Agreement, proposed
9 terms for a Compliance Commitment Agreement that
10 includes specified times for achieving each commitment
11 and which may consist of a statement indicating that
12 the person complained against believes that compliance
13 has been achieved; and

14 (C) a request for a meeting with appropriate Agency
15 personnel if a meeting is desired by the person
16 complained against.

17 (3) If the person complained against fails to respond
18 in accordance with the requirements of subdivision (2) of
19 this subsection (a), the failure to respond shall be
20 considered a waiver of the requirements of this subsection
21 (a) and nothing in this Section shall preclude the Agency
22 from proceeding pursuant to subsection (b) of this Section.

23 (4) A meeting requested pursuant to subdivision (2) of
24 this subsection (a) shall be held without a representative
25 of the Office of the Illinois Attorney General or the
26 State's Attorney of the county in which the alleged

1 violation occurred, within 60 days after receipt of notice
2 by the person complained against, unless the Agency agrees
3 to a postponement. At the meeting, the Agency shall provide
4 an opportunity for the person complained against to respond
5 to each alleged violation, suggested resolution, and
6 suggested implementation time frame, and to suggest
7 alternate resolutions.

8 (5) If a meeting requested pursuant to subdivision (2)
9 of this subsection (a) is held, the person complained
10 against shall, within 21 days following the meeting or
11 within an extended time period as agreed to by the Agency,
12 submit by certified mail to the Agency a written response
13 to the alleged violations. The written response shall
14 include:

15 (A) additional information in rebuttal,
16 explanation, or justification of each alleged
17 violation;

18 (B) if the person complained against desires to
19 enter into a Compliance Commitment Agreement, proposed
20 terms for a Compliance Commitment Agreement that
21 includes specified times for achieving each commitment
22 and which may consist of a statement indicating that
23 the person complained against believes that compliance
24 has been achieved; and

25 (C) a statement indicating that, should the person
26 complained against so wish, the person complained

1 against chooses to rely upon the initial written
2 response submitted pursuant to subdivision (2) of this
3 subsection (a).

4 (6) If the person complained against fails to respond
5 in accordance with the requirements of subdivision (5) of
6 this subsection (a), the failure to respond shall be
7 considered a waiver of the requirements of this subsection
8 (a) and nothing in this Section shall preclude the Agency
9 from proceeding pursuant to subsection (b) of this Section.

10 (7) Within 30 days after the Agency's receipt of a
11 written response submitted by the person complained
12 against pursuant to subdivision (2) of this subsection (a)
13 if a meeting is not requested or pursuant to subdivision
14 (5) of this subsection (a) if a meeting is held, or within
15 a later time period as agreed to by the Agency and the
16 person complained against, the Agency shall issue and
17 serve, by certified mail, upon the person complained
18 against (i) a proposed Compliance Commitment Agreement or
19 (ii) a notice that one or more violations cannot be
20 resolved without the involvement of the Office of the
21 Attorney General or the State's Attorney of the county in
22 which the alleged violation occurred and that no proposed
23 Compliance Commitment Agreement will be issued by the
24 Agency for those violations. The Agency shall include terms
25 and conditions in the proposed Compliance Commitment
26 Agreement that are, in its discretion, necessary to bring

1 the person complained against into compliance with the Act,
2 any rule adopted under the Act, any permit granted by the
3 Agency, or any condition of such a permit. The Agency shall
4 take into consideration the proposed terms for the proposed
5 Compliance Commitment Agreement that were provided under
6 subdivision (a) (2) (B) or (a) (5) (B) of this Section by the
7 person complained against.

8 (7.5) Within 30 days after the receipt of the Agency's
9 proposed Compliance Commitment Agreement by the person
10 complained against, the person shall either (i) agree to
11 and sign the proposed Compliance Commitment Agreement
12 provided by the Agency and submit the signed Compliance
13 Commitment Agreement to the Agency by certified mail or
14 (ii) notify the Agency in writing by certified mail of the
15 person's rejection of the proposed Compliance Commitment
16 Agreement. If the person complained against fails to
17 respond to the proposed Compliance Commitment Agreement
18 within 30 days as required under this paragraph, the
19 proposed Compliance Commitment Agreement is deemed
20 rejected by operation of law. Any Compliance Commitment
21 Agreement entered into under item (i) of this paragraph may
22 be amended subsequently in writing by mutual agreement
23 between the Agency and the signatory to the Compliance
24 Commitment Agreement, the signatory's legal
25 representative, or the signatory's agent.

26 (7.6) No person shall violate the terms or conditions

1 of a Compliance Commitment Agreement entered into under
2 subdivision (a)(7.5) of this Section. Successful
3 completion of a Compliance Commitment Agreement or an
4 amended Compliance Commitment Agreement shall be a factor
5 to be weighed, in favor of the person completing the
6 Agreement, by the Office of the Illinois Attorney General
7 in determining whether to file a complaint for the
8 violations that were the subject of the Agreement.

9 (8) Nothing in this subsection (a) is intended to
10 require the Agency to enter into Compliance Commitment
11 Agreements for any alleged violation that the Agency
12 believes cannot be resolved without the involvement of the
13 Office of the Attorney General or the State's Attorney of
14 the county in which the alleged violation occurred, for,
15 among other purposes, the imposition of statutory
16 penalties.

17 (9) The Agency's failure to respond within 90 ~~30~~ days
18 to a written response submitted pursuant to subdivision (2)
19 of this subsection (a) if a meeting is not requested or
20 pursuant to subdivision (5) of this subsection (a) if a
21 meeting is held, or within the time period otherwise agreed
22 to in writing by the Agency and the person complained
23 against, shall be deemed an acceptance by the Agency of the
24 proposed terms of the Compliance Commitment Agreement for
25 the violations alleged in the written notice issued under
26 subdivision (1) of this subsection (a) as contained within

1 the written response.

2 (10) If the person complained against complies with the
3 terms of a Compliance Commitment Agreement accepted
4 pursuant to this subsection (a), the Agency shall not refer
5 the alleged violations which are the subject of the
6 Compliance Commitment Agreement to the Office of the
7 Illinois Attorney General or the State's Attorney of the
8 county in which the alleged violation occurred. However,
9 nothing in this subsection is intended to preclude the
10 Agency from continuing negotiations with the person
11 complained against or from proceeding pursuant to the
12 provisions of subsection (b) of this Section for alleged
13 violations that remain the subject of disagreement between
14 the Agency and the person complained against following
15 fulfillment of the requirements of this subsection (a).

16 (11) Nothing in this subsection (a) is intended to
17 preclude the person complained against from submitting to
18 the Agency, by certified mail, at any time, notification
19 that the person complained against consents to waiver of
20 the requirements of subsections (a) and (b) of this
21 Section.

22 (12) The Agency shall have the authority to adopt rules
23 for the administration of subsection (a) of this Section.
24 The rules shall be adopted in accordance with the
25 provisions of the Illinois Administrative Procedure Act.

26 (b) For alleged violations that remain the subject of

1 disagreement between the Agency and the person complained
2 against following fulfillment of the requirements of
3 subsection (a) of this Section, and for alleged violations of
4 the terms or conditions of a Compliance Commitment Agreement
5 entered into under subdivision (a) (7.5) of this Section as well
6 as the alleged violations that are the subject of the
7 Compliance Commitment Agreement, and as a precondition to the
8 Agency's referral or request to the Office of the Illinois
9 Attorney General or the State's Attorney of the county in which
10 the alleged violation occurred for legal representation
11 regarding an alleged violation that may be addressed pursuant
12 to subsection (c) or (d) of this Section or pursuant to Section
13 42 of this Act, the Agency shall issue and serve, by certified
14 mail, upon the person complained against a written notice
15 informing that person that the Agency intends to pursue legal
16 action. Such notice shall notify the person complained against
17 of the violations to be alleged and offer the person an
18 opportunity to meet with appropriate Agency personnel in an
19 effort to resolve any alleged violations that could lead to the
20 filing of a formal complaint. The meeting with Agency personnel
21 shall be held within 30 days after receipt of notice served
22 pursuant to this subsection upon the person complained against,
23 unless the Agency agrees to a postponement or the person
24 notifies the Agency that he or she will not appear at a meeting
25 within the 30-day time period. Nothing in this subsection is
26 intended to preclude the Agency from following the provisions

1 of subsection (c) or (d) of this Section or from requesting the
2 legal representation of the Office of the Illinois Attorney
3 General or the State's Attorney of the county in which the
4 alleged violations occurred for alleged violations which
5 remain the subject of disagreement between the Agency and the
6 person complained against after the provisions of this
7 subsection are fulfilled.

8 (c) (1) For alleged violations which remain the subject of
9 disagreement between the Agency and the person complained
10 against following waiver pursuant to subdivision (10) of
11 subsection (a) of this Section or fulfillment of the
12 requirements of subsections (a) and (b) of this Section,
13 the Office of the Illinois Attorney General or the State's
14 Attorney of the county in which the alleged violation
15 occurred shall issue and serve upon the person complained
16 against a written notice, together with a formal complaint,
17 which shall specify the provision of the Act, rule,
18 regulation, permit, or term or condition thereof under
19 which such person is said to be in violation and a
20 statement of the manner in and the extent to which such
21 person is said to violate the Act, rule, regulation,
22 permit, or term or condition thereof and shall require the
23 person so complained against to answer the charges of such
24 formal complaint at a hearing before the Board at a time
25 not less than 21 days after the date of notice by the
26 Board, except as provided in Section 34 of this Act. Such

1 complaint shall be accompanied by a notification to the
2 defendant that financing may be available, through the
3 Illinois Environmental Facilities Financing Act, to
4 correct such violation. A copy of such notice of such
5 hearings shall also be sent to any person that has
6 complained to the Agency respecting the respondent within
7 the six months preceding the date of the complaint, and to
8 any person in the county in which the offending activity
9 occurred that has requested notice of enforcement
10 proceedings; 21 days notice of such hearings shall also be
11 published in a newspaper of general circulation in such
12 county. The respondent may file a written answer, and at
13 such hearing the rules prescribed in Sections 32 and 33 of
14 this Act shall apply. In the case of actual or threatened
15 acts outside Illinois contributing to environmental damage
16 in Illinois, the extraterritorial service-of-process
17 provisions of Sections 2-208 and 2-209 of the Code of Civil
18 Procedure shall apply.

19 With respect to notices served pursuant to this
20 subsection (c)(1) that involve hazardous material or
21 wastes in any manner, the Agency shall annually publish a
22 list of all such notices served. The list shall include the
23 date the investigation commenced, the date notice was sent,
24 the date the matter was referred to the Attorney General,
25 if applicable, and the current status of the matter.

26 (2) Notwithstanding the provisions of subdivision (1)

1 of this subsection (c), whenever a complaint has been filed
2 on behalf of the Agency or by the People of the State of
3 Illinois, the parties may file with the Board a stipulation
4 and proposal for settlement accompanied by a request for
5 relief from the requirement of a hearing pursuant to
6 subdivision (1). Unless the Board, in its discretion,
7 concludes that a hearing will be held, the Board shall
8 cause notice of the stipulation, proposal and request for
9 relief to be published and sent in the same manner as is
10 required for hearing pursuant to subdivision (1) of this
11 subsection. The notice shall include a statement that any
12 person may file a written demand for hearing within 21 days
13 after receiving the notice. If any person files a timely
14 written demand for hearing, the Board shall deny the
15 request for relief from a hearing and shall hold a hearing
16 in accordance with the provisions of subdivision (1).

17 (3) Notwithstanding the provisions of subdivision (1)
18 of this subsection (c), if the Agency becomes aware of a
19 violation of this Act arising from, or as a result of,
20 voluntary pollution prevention activities, the Agency
21 shall not proceed with the written notice required by
22 subsection (a) of this Section unless:

23 (A) the person fails to take corrective action or
24 eliminate the reported violation within a reasonable
25 time; or

26 (B) the Agency believes that the violation poses a

1 substantial and imminent danger to the public health or
2 welfare or the environment. For the purposes of this
3 item (B), "substantial and imminent danger" means a
4 danger with a likelihood of serious or irreversible
5 harm.

6 (d) (1) Any person may file with the Board a complaint,
7 meeting the requirements of subsection (c) of this Section,
8 against any person allegedly violating this Act, any rule
9 or regulation adopted under this Act, any permit or term or
10 condition of a permit, or any Board order. The complainant
11 shall immediately serve a copy of such complaint upon the
12 person or persons named therein. Unless the Board
13 determines that such complaint is duplicative or
14 frivolous, it shall schedule a hearing and serve written
15 notice thereof upon the person or persons named therein, in
16 accord with subsection (c) of this Section.

17 (2) Whenever a complaint has been filed by a person
18 other than the Attorney General or the State's Attorney,
19 the parties may file with the Board a stipulation and
20 proposal for settlement accompanied by a request for relief
21 from the hearing requirement of subdivision (c) (1) of this
22 Section. Unless the Board, in its discretion, concludes
23 that a hearing should be held, no hearing on the
24 stipulation and proposal for settlement is required.

25 (e) In hearings before the Board under this Title the
26 burden shall be on the Agency or other complainant to show

1 either that the respondent has caused or threatened to cause
2 air or water pollution or that the respondent has violated or
3 threatens to violate any provision of this Act or any rule or
4 regulation of the Board or permit or term or condition thereof.
5 If such proof has been made, the burden shall be on the
6 respondent to show that compliance with the Board's regulations
7 would impose an arbitrary or unreasonable hardship.

8 (f) The provisions of this Section shall not apply to
9 administrative citation actions commenced under Section 31.1
10 of this Act.

11 (g) Where the alleged violation under this Section is that
12 an owner or operator has accepted soil other than
13 uncontaminated soil as fill material under Section 22.51 or
14 22.51a of this Act, the Agency's allegations shall be based
15 upon a demonstrated threat to area groundwater, using the risk
16 based analysis and sampling procedures set forth in 35 Ill.
17 Adm. Code Part 742, and any testing shall be conducted by
18 laboratories that are properly certified in accordance with the
19 Agency's authority under Section 4 of this Act. The owner or
20 operator shall be given the opportunity to conduct split
21 sampling.

22 (Source: P.A. 97-519, eff. 8-23-11.)

23 (415 ILCS 5/31.1) (from Ch. 111 1/2, par. 1031.1)

24 Sec. 31.1. Administrative citation.

25 (a) The prohibitions specified in subsections (o) and (p)

1 of Section 21 and subsection (k) of Section 55 of this Act
2 shall be enforceable either by administrative citation under
3 this Section or as otherwise provided by this Act. Violations
4 of Section 22.51 and 22.51a of this Act and violations of the
5 rules adopted under those Sections shall be enforceable either
6 by administrative citation under this Section or as otherwise
7 provided by this Act.

8 (b) Whenever Agency personnel or personnel of a unit of
9 local government to which the Agency has delegated its
10 functions pursuant to subsection (r) of Section 4 of this Act,
11 on the basis of direct observation, determine that any person
12 has violated any provision of subsection (o) or (p) of Section
13 21, Section 22.51, Section 22.51a, ~~or~~ subsection (k) of Section
14 55 of this Act, or any rules adopted under Section 22.51 or
15 Section 22.51a of this Act, the Agency or such unit of local
16 government may issue and serve an administrative citation upon
17 such person within not more than 60 days after the date of the
18 observed violation. Each such citation issued shall be served
19 upon the person named therein or such person's authorized agent
20 for service of process, and shall include the following
21 information:

22 (1) a statement specifying the provision ~~provisions of~~
23 ~~subsection (o) or (p) of Section 21, Section 22.51, Section~~
24 ~~22.51a, or subsection (k) of Section 55 of which~~ the person
25 was observed to violate ~~be in violation~~;

26 (2) a copy of the inspection report in which the Agency

1 or local government recorded the violation, which report
2 shall include the date and time of inspection, and weather
3 conditions prevailing during the inspection;

4 (3) the penalty imposed by subdivision (b)(4) or
5 (b)(4-5) of Section 42 for such violation;

6 (4) instructions for contesting the administrative
7 citation findings pursuant to this Section, including
8 notification that the person has 35 days within which to
9 file a petition for review before the Board to contest the
10 administrative citation; and

11 (5) an affidavit by the personnel observing the
12 violation, attesting to their material actions and
13 observations.

14 (c) The Agency or unit of local government shall file a
15 copy of each administrative citation served under subsection
16 (b) of this Section with the Board no later than 10 days after
17 the date of service.

18 (d) (1) If the person named in the administrative citation
19 fails to petition the Board for review within 35 days from the
20 date of service, the Board shall adopt a final order, which
21 shall include the administrative citation and findings of
22 violation as alleged in the citation, and shall impose the
23 penalty specified in subdivision (b)(4) or (b)(4-5) of Section
24 42.

25 (2) If a petition for review is filed before the Board to
26 contest an administrative citation issued under subsection (b)

1 of this Section, the Agency or unit of local government shall
2 appear as a complainant at a hearing before the Board to be
3 conducted pursuant to Section 32 of this Act at a time not less
4 than 21 days after notice of such hearing has been sent by the
5 Board to the Agency or unit of local government and the person
6 named in the citation. In such hearings, the burden of proof
7 shall be on the Agency or unit of local government. If, based
8 on the record, the Board finds that the alleged violation
9 occurred, it shall adopt a final order which shall include the
10 administrative citation and findings of violation as alleged in
11 the citation, and shall impose the penalty specified in
12 subdivision (b) (4) or (b) (4-5) of Section 42. However, if the
13 Board finds that the person appealing the citation has shown
14 that the violation resulted from uncontrollable circumstances,
15 the Board shall adopt a final order which makes no finding of
16 violation and which imposes no penalty.

17 (e) Sections 10-25 through 10-60 of the Illinois
18 Administrative Procedure Act shall not apply to any
19 administrative citation issued under subsection (b) of this
20 Section.

21 (f) The other provisions of this Section shall not apply to
22 a sanitary landfill operated by a unit of local government
23 solely for the purpose of disposing of water and sewage
24 treatment plant sludges, including necessary stabilizing
25 materials.

26 (g) All final orders issued and entered by the Board

1 pursuant to this Section shall be enforceable by injunction,
2 mandamus or other appropriate remedy, in accordance with
3 Section 42 of this Act.

4 (Source: P.A. 96-737, eff. 8-25-09; 96-1416, eff. 7-30-10.)

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

6 Sec. 39. Issuance of permits; procedures.

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

1 promulgated by the Board hereunder. Except as otherwise
2 provided in this Act, a bond or other security shall not be
3 required as a condition for the issuance of a permit. If the
4 Agency denies any permit under this Section, the Agency shall
5 transmit to the applicant within the time limitations of this
6 Section specific, detailed statements as to the reasons the
7 permit application was denied. Such statements shall include,
8 but not be limited to the following:

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

11 (ii) the provision of the regulations, promulgated
12 under this Act, which may be violated if the permit were
13 granted;

14 (iii) the specific type of information, if any, which
15 the Agency deems the applicant did not provide the Agency;
16 and

17 (iv) a statement of specific reasons why the Act and
18 the regulations might not be met if the permit were
19 granted.

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

1 this subsection, or (3) the application that was filed is for a
2 MSWLF unit required to issue public notice under subsection (p)
3 of Section 39. The 90-day and 180-day time periods for the
4 Agency to take final action do not apply to NPDES permit
5 applications under subsection (b) of this Section, to RCRA
6 permit applications under subsection (d) of this Section, or to
7 UIC permit applications under subsection (e) of this Section.

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

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

25 After June 30, 1998, operating permits issued under this
26 Section by the Agency for sources of air pollution that are not

1 subject to Section 39.5 of this Act and are not required to
2 have a federally enforceable State operating permit shall be
3 required to be renewed only upon written request by the Agency
4 consistent with applicable provisions of this Act and its
5 rules. Such operating permits shall expire 180 days after the
6 date of such a request. Before July 1, 1998, the Board shall
7 revise its rules for the existing State air pollution operating
8 permit program consistent with this paragraph and shall adopt
9 rules that require a source to demonstrate that it qualifies
10 for a permit under this paragraph.

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

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

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

26 The Agency may include, among such conditions, effluent

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

6 The Agency shall establish a monitoring protocol for the
7 monitoring of discharges under NPDES permits issued to clean
8 construction demolition debris sites permitted under Section
9 22.51. The Agency shall include these monitoring provisions to
10 alert operators and the Agency if there is illegal dumping of
11 contaminated materials or hazardous wastes at said site.

12 The Agency shall adopt filing requirements and procedures
13 which are necessary and appropriate for the issuance of NPDES
14 permits, and which are consistent with the Act or regulations
15 adopted by the Board, and with the Federal Water Pollution
16 Control Act, as now or hereafter amended, and regulations
17 pursuant thereto.

18 The Agency, subject to any conditions which may be
19 prescribed by Board regulations, may issue NPDES permits to
20 allow discharges beyond deadlines established by this Act or by
21 regulations of the Board without the requirement of a variance,
22 subject to the Federal Water Pollution Control Act, as now or
23 hereafter amended, and regulations pursuant thereto.

24 (c) Except for those facilities owned or operated by
25 sanitary districts organized under the Metropolitan Water
26 Reclamation District Act, no permit for the development or

1 construction of a new pollution control facility may be granted
2 by the Agency unless the applicant submits proof to the Agency
3 that the location of the facility has been approved by the
4 County Board of the county if in an unincorporated area, or the
5 governing body of the municipality when in an incorporated
6 area, in which the facility is to be located in accordance with
7 Section 39.2 of this Act. For purposes of this subsection (c),
8 and for purposes of Section 39.2 of this Act, the appropriate
9 county board or governing body of the municipality shall be the
10 county board of the county or the governing body of the
11 municipality in which the facility is to be located as of the
12 date when the application for siting approval is filed.

13 In the event that siting approval granted pursuant to
14 Section 39.2 has been transferred to a subsequent owner or
15 operator, that subsequent owner or operator may apply to the
16 Agency for, and the Agency may grant, a development or
17 construction permit for the facility for which local siting
18 approval was granted. Upon application to the Agency for a
19 development or construction permit by that subsequent owner or
20 operator, the permit applicant shall cause written notice of
21 the permit application to be served upon the appropriate county
22 board or governing body of the municipality that granted siting
23 approval for that facility and upon any party to the siting
24 proceeding pursuant to which siting approval was granted. In
25 that event, the Agency shall conduct an evaluation of the
26 subsequent owner or operator's prior experience in waste

1 management operations in the manner conducted under subsection
2 (i) of Section 39 of this Act.

3 Beginning August 20, 1993, if the pollution control
4 facility consists of a hazardous or solid waste disposal
5 facility for which the proposed site is located in an
6 unincorporated area of a county with a population of less than
7 100,000 and includes all or a portion of a parcel of land that
8 was, on April 1, 1993, adjacent to a municipality having a
9 population of less than 5,000, then the local siting review
10 required under this subsection (c) in conjunction with any
11 permit applied for after that date shall be performed by the
12 governing body of that adjacent municipality rather than the
13 county board of the county in which the proposed site is
14 located; and for the purposes of that local siting review, any
15 references in this Act to the county board shall be deemed to
16 mean the governing body of that adjacent municipality;
17 provided, however, that the provisions of this paragraph shall
18 not apply to any proposed site which was, on April 1, 1993,
19 owned in whole or in part by another municipality.

20 In the case of a pollution control facility for which a
21 development permit was issued before November 12, 1981, if an
22 operating permit has not been issued by the Agency prior to
23 August 31, 1989 for any portion of the facility, then the
24 Agency may not issue or renew any development permit nor issue
25 an original operating permit for any portion of such facility
26 unless the applicant has submitted proof to the Agency that the

1 location of the facility has been approved by the appropriate
2 county board or municipal governing body pursuant to Section
3 39.2 of this Act.

4 After January 1, 1994, if a solid waste disposal facility,
5 any portion for which an operating permit has been issued by
6 the Agency, has not accepted waste disposal for 5 or more
7 consecutive calendar years, before that facility may accept
8 any new or additional waste for disposal, the owner and
9 operator must obtain a new operating permit under this Act for
10 that facility unless the owner and operator have applied to the
11 Agency for a permit authorizing the temporary suspension of
12 waste acceptance. The Agency may not issue a new operation
13 permit under this Act for the facility unless the applicant has
14 submitted proof to the Agency that the location of the facility
15 has been approved or re-approved by the appropriate county
16 board or municipal governing body under Section 39.2 of this
17 Act after the facility ceased accepting waste.

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

26 Before beginning construction on any new sewage treatment

1 plant or sludge drying site to be owned or operated by a
2 sanitary district organized under the Metropolitan Water
3 Reclamation District Act for which a new permit (rather than
4 the renewal or amendment of an existing permit) is required,
5 such sanitary district shall hold a public hearing within the
6 municipality within which the proposed facility is to be
7 located, or within the nearest community if the proposed
8 facility is to be located within an unincorporated area, at
9 which information concerning the proposed facility shall be
10 made available to the public, and members of the public shall
11 be given the opportunity to express their views concerning the
12 proposed facility.

13 The Agency may issue a permit for a municipal waste
14 transfer station without requiring approval pursuant to
15 Section 39.2 provided that the following demonstration is made:

16 (1) the municipal waste transfer station was in
17 existence on or before January 1, 1979 and was in
18 continuous operation from January 1, 1979 to January 1,
19 1993;

20 (2) the operator submitted a permit application to the
21 Agency to develop and operate the municipal waste transfer
22 station during April of 1994;

23 (3) the operator can demonstrate that the county board
24 of the county, if the municipal waste transfer station is
25 in an unincorporated area, or the governing body of the
26 municipality, if the station is in an incorporated area,

1 does not object to resumption of the operation of the
2 station; and

3 (4) the site has local zoning approval.

4 (d) The Agency may issue RCRA permits exclusively under
5 this subsection to persons owning or operating a facility for
6 the treatment, storage, or disposal of hazardous waste as
7 defined under this Act.

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

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

25 The Agency shall adopt filing requirements and procedures
26 which are necessary and appropriate for the issuance of RCRA

1 permits, and which are consistent with the Act or regulations
2 adopted by the Board, and with the Resource Conservation and
3 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
4 pursuant thereto.

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

14 (e) The Agency may issue UIC permits exclusively under this
15 subsection to persons owning or operating a facility for the
16 underground injection of contaminants as defined under this
17 Act.

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

1 as a condition for the issuance of a UIC permit.

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

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

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

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

26 (2) The Agency shall adopt requirements as necessary to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 The Agency shall issue permits for such facilities upon

1 receipt of an application that includes a legal description of
2 the site, a topographic map of the site drawn to the scale of
3 200 feet to the inch or larger, a description of the operation,
4 including the area served, an estimate of the volume of
5 materials to be processed, and documentation that:

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

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

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

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

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

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

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

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

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

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

21 (o) (Blank.)

22 (p) (1) Any person submitting an application for a permit
23 for a new MSWLF unit or for a lateral expansion under
24 subsection (t) of Section 21 of this Act for an existing MSWLF
25 unit that has not received and is not subject to local siting
26 approval under Section 39.2 of this Act shall publish notice of

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

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

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

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

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

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

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

25 (2) Within 2 years after July 12, 2011 (the effective
26 date of Public Act 97-95), permit application forms or

1 portions of permit applications that can be completed and
2 saved electronically, and submitted to the Agency
3 electronically with digital signatures.

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

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

23 (B) for those applications where the Agency has not
24 taken action in accordance with the timeframes set
25 forth in this Act, the date the application was
26 received and the reasons for any delays, which may

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

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

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

23 (t) Except as otherwise prohibited by federal law or
24 regulation, any person submitting an application for a permit
25 may include with the application suggested permit language for
26 Agency consideration. The Agency is not obligated to use the

1 suggested language or any portion thereof in its permitting
2 decision. If requested by the permit applicant, the Agency
3 shall meet with the applicant to discuss the suggested
4 language.

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

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

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

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

24 (Source: P.A. 98-284, eff. 8-9-13; 99-396, eff. 8-18-15;
25 99-463, eff. 1-1-16; 99-642, eff. 7-28-16.)

1 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

2 Sec. 42. Civil penalties.

3 (a) Except as provided in this Section, any person that
4 violates any provision of this Act or any regulation adopted by
5 the Board, or any permit or term or condition thereof, or that
6 violates any order of the Board pursuant to this Act, shall be
7 liable for a civil penalty of not to exceed \$50,000 for the
8 violation and an additional civil penalty of not to exceed
9 \$10,000 for each day during which the violation continues; such
10 penalties may, upon order of the Board or a court of competent
11 jurisdiction, be made payable to the Environmental Protection
12 Trust Fund, to be used in accordance with the provisions of the
13 Environmental Protection Trust Fund Act.

14 (b) Notwithstanding the provisions of subsection (a) of
15 this Section:

16 (1) Any person that violates Section 12(f) of this Act
17 or any NPDES permit or term or condition thereof, or any
18 filing requirement, regulation or order relating to the
19 NPDES permit program, shall be liable to a civil penalty of
20 not to exceed \$10,000 per day of violation.

21 (2) Any person that violates Section 12(g) of this Act
22 or any UIC permit or term or condition thereof, or any
23 filing requirement, regulation or order relating to the
24 State UIC program for all wells, except Class II wells as
25 defined by the Board under this Act, shall be liable to a
26 civil penalty not to exceed \$2,500 per day of violation;

1 provided, however, that any person who commits such
2 violations relating to the State UIC program for Class II
3 wells, as defined by the Board under this Act, shall be
4 liable to a civil penalty of not to exceed \$10,000 for the
5 violation and an additional civil penalty of not to exceed
6 \$1,000 for each day during which the violation continues.

7 (3) Any person that violates Sections 21(f), 21(g),
8 21(h) or 21(i) of this Act, or any RCRA permit or term or
9 condition thereof, or any filing requirement, regulation
10 or order relating to the State RCRA program, shall be
11 liable to a civil penalty of not to exceed \$25,000 per day
12 of violation.

13 (4) In an administrative citation action under Section
14 31.1 of this Act, any person found to have violated any
15 provision of subsection (o) of Section 21 of this Act shall
16 pay a civil penalty of \$500 for each violation of each such
17 provision, plus any hearing costs incurred by the Board and
18 the Agency. Such penalties shall be made payable to the
19 Environmental Protection Trust Fund, to be used in
20 accordance with the provisions of the Environmental
21 Protection Trust Fund Act; except that if a unit of local
22 government issued the administrative citation, 50% of the
23 civil penalty shall be payable to the unit of local
24 government.

25 (4-5) In an administrative citation action under
26 Section 31.1 of this Act, any person found to have violated

1 any provision of subsection (p) of Section 21, Section
2 22.51, Section 22.51a, or subsection (k) of Section 55 of
3 this Act, or any rule adopted under Section 22.51 or
4 Section 22.51a of this Act, shall pay a civil penalty of
5 \$1,500 for each violation of each such provision, plus any
6 hearing costs incurred by the Board and the Agency, except
7 that the civil penalty amount shall be \$3,000 for each
8 violation of any provision of subsection (p) of Section 21,
9 Section 22.51, Section 22.51a, or subsection (k) of Section
10 55, or any rule adopted under Section 22.51 or Section
11 22.51a of this Act, that is the person's second or
12 subsequent adjudicated ~~adjudication~~ violation of that
13 provision. The penalties shall be deposited into the
14 Environmental Protection Trust Fund, to be used in
15 accordance with the provisions of the Environmental
16 Protection Trust Fund Act; except that if a unit of local
17 government issued the administrative citation, 50% of the
18 civil penalty shall be payable to the unit of local
19 government.

20 (5) Any person who violates subsection 6 of Section
21 39.5 of this Act or any CAAPP permit, or term or condition
22 thereof, or any fee or filing requirement, or any duty to
23 allow or carry out inspection, entry or monitoring
24 activities, or any regulation or order relating to the
25 CAAPP shall be liable for a civil penalty not to exceed
26 \$10,000 per day of violation.

1 (6) Any owner or operator of a community water system
2 that violates subsection (b) of Section 18.1 or subsection
3 (a) of Section 25d-3 of this Act shall, for each day of
4 violation, be liable for a civil penalty not to exceed \$5
5 for each of the premises connected to the affected
6 community water system.

7 (7) Any person who violates Section 52.5 of this Act
8 shall be liable for a civil penalty of up to \$1,000 for the
9 first violation of that Section and a civil penalty of up
10 to \$2,500 for a second or subsequent violation of that
11 Section.

12 (b.5) In lieu of the penalties set forth in subsections (a)
13 and (b) of this Section, any person who fails to file, in a
14 timely manner, toxic chemical release forms with the Agency
15 pursuant to Section 25b-2 of this Act shall be liable for a
16 civil penalty of \$100 per day for each day the forms are late,
17 not to exceed a maximum total penalty of \$6,000. This daily
18 penalty shall begin accruing on the thirty-first day after the
19 date that the person receives the warning notice issued by the
20 Agency pursuant to Section 25b-6 of this Act; and the penalty
21 shall be paid to the Agency. The daily accrual of penalties
22 shall cease as of January 1 of the following year. All
23 penalties collected by the Agency pursuant to this subsection
24 shall be deposited into the Environmental Protection Permit and
25 Inspection Fund.

26 (c) Any person that violates this Act, any rule or

1 regulation adopted under this Act, any permit or term or
2 condition of a permit, or any Board order and causes the death
3 of fish or aquatic life shall, in addition to the other
4 penalties provided by this Act, be liable to pay to the State
5 an additional sum for the reasonable value of the fish or
6 aquatic life destroyed. Any money so recovered shall be placed
7 in the Wildlife and Fish Fund in the State Treasury.

8 (d) The penalties provided for in this Section may be
9 recovered in a civil action.

10 (e) The State's Attorney of the county in which the
11 violation occurred, or the Attorney General, may, at the
12 request of the Agency or on his own motion, institute a civil
13 action for an injunction, prohibitory or mandatory, to restrain
14 violations of this Act, any rule or regulation adopted under
15 this Act, any permit or term or condition of a permit, or any
16 Board order, or to require such other actions as may be
17 necessary to address violations of this Act, any rule or
18 regulation adopted under this Act, any permit or term or
19 condition of a permit, or any Board order.

20 (f) The State's Attorney of the county in which the
21 violation occurred, or the Attorney General, shall bring such
22 actions in the name of the people of the State of Illinois.
23 Without limiting any other authority which may exist for the
24 awarding of attorney's fees and costs, the Board or a court of
25 competent jurisdiction may award costs and reasonable
26 attorney's fees, including the reasonable costs of expert

1 witnesses and consultants, to the State's Attorney or the
2 Attorney General in a case where he has prevailed against a
3 person who has committed a willful ~~willful~~, knowing, or repeated
4 violation of this Act, any rule or regulation adopted under
5 this Act, any permit or term or condition of a permit, or any
6 Board order.

7 Any funds collected under this subsection (f) in which the
8 Attorney General has prevailed shall be deposited in the
9 Hazardous Waste Fund created in Section 22.2 of this Act. Any
10 funds collected under this subsection (f) in which a State's
11 Attorney has prevailed shall be retained by the county in which
12 he serves.

13 (g) All final orders imposing civil penalties pursuant to
14 this Section shall prescribe the time for payment of such
15 penalties. If any such penalty is not paid within the time
16 prescribed, interest on such penalty at the rate set forth in
17 subsection (a) of Section 1003 of the Illinois Income Tax Act,
18 shall be paid for the period from the date payment is due until
19 the date payment is received. However, if the time for payment
20 is stayed during the pendency of an appeal, interest shall not
21 accrue during such stay.

22 (h) In determining the appropriate civil penalty to be
23 imposed under subdivisions (a), (b)(1), (b)(2), (b)(3),
24 (b)(5), (b)(6), or (b)(7) of this Section, the Board is
25 authorized to consider any matters of record in mitigation or
26 aggravation of penalty, including, but not limited to, the

1 following factors:

2 (1) the duration and gravity of the violation;

3 (2) the presence or absence of due diligence on the
4 part of the respondent in attempting to comply with
5 requirements of this Act and regulations thereunder or to
6 secure relief therefrom as provided by this Act;

7 (3) any economic benefits accrued by the respondent
8 because of delay in compliance with requirements, in which
9 case the economic benefits shall be determined by the
10 lowest cost alternative for achieving compliance;

11 (4) the amount of monetary penalty which will serve to
12 deter further violations by the respondent and to otherwise
13 aid in enhancing voluntary compliance with this Act by the
14 respondent and other persons similarly subject to the Act;

15 (5) the number, proximity in time, and gravity of
16 previously adjudicated violations of this Act by the
17 respondent;

18 (6) whether the respondent voluntarily self-disclosed,
19 in accordance with subsection (i) of this Section, the
20 non-compliance to the Agency;

21 (7) whether the respondent has agreed to undertake a
22 "supplemental environmental project", which means an
23 environmentally beneficial project that a respondent
24 agrees to undertake in settlement of an enforcement action
25 brought under this Act, but which the respondent is not
26 otherwise legally required to perform; and

1 (8) whether the respondent has successfully completed
2 a Compliance Commitment Agreement under subsection (a) of
3 Section 31 of this Act to remedy the violations that are
4 the subject of the complaint.

5 In determining the appropriate civil penalty to be imposed
6 under subsection (a) or paragraph (1), (2), (3), (5), (6), or
7 (7) of subsection (b) of this Section, the Board shall ensure,
8 in all cases, that the penalty is at least as great as the
9 economic benefits, if any, accrued by the respondent as a
10 result of the violation, unless the Board finds that imposition
11 of such penalty would result in an arbitrary or unreasonable
12 financial hardship. However, such civil penalty may be off-set
13 in whole or in part pursuant to a supplemental environmental
14 project agreed to by the complainant and the respondent.

15 (i) A person who voluntarily self-discloses non-compliance
16 to the Agency, of which the Agency had been unaware, is
17 entitled to a 100% reduction in the portion of the penalty that
18 is not based on the economic benefit of non-compliance if the
19 person can establish the following:

20 (1) that either the regulated entity is a small entity
21 or the non-compliance was discovered through an
22 environmental audit or a compliance management system
23 documented by the regulated entity as reflecting the
24 regulated entity's due diligence in preventing, detecting,
25 and correcting violations;

26 (2) that the non-compliance was disclosed in writing

1 within 30 days of the date on which the person discovered
2 it;

3 (3) that the non-compliance was discovered and
4 disclosed prior to:

5 (i) the commencement of an Agency inspection,
6 investigation, or request for information;

7 (ii) notice of a citizen suit;

8 (iii) the filing of a complaint by a citizen, the
9 Illinois Attorney General, or the State's Attorney of
10 the county in which the violation occurred;

11 (iv) the reporting of the non-compliance by an
12 employee of the person without that person's
13 knowledge; or

14 (v) imminent discovery of the non-compliance by
15 the Agency;

16 (4) that the non-compliance is being corrected and any
17 environmental harm is being remediated in a timely fashion;

18 (5) that the person agrees to prevent a recurrence of
19 the non-compliance;

20 (6) that no related non-compliance events have
21 occurred in the past 3 years at the same facility or in the
22 past 5 years as part of a pattern at multiple facilities
23 owned or operated by the person;

24 (7) that the non-compliance did not result in serious
25 actual harm or present an imminent and substantial
26 endangerment to human health or the environment or violate

1 the specific terms of any judicial or administrative order
2 or consent agreement;

3 (8) that the person cooperates as reasonably requested
4 by the Agency after the disclosure; and

5 (9) that the non-compliance was identified voluntarily
6 and not through a monitoring, sampling, or auditing
7 procedure that is required by statute, rule, permit,
8 judicial or administrative order, or consent agreement.

9 If a person can establish all of the elements under this
10 subsection except the element set forth in paragraph (1) of
11 this subsection, the person is entitled to a 75% reduction in
12 the portion of the penalty that is not based upon the economic
13 benefit of non-compliance.

14 For the purposes of this subsection (i), "small entity" has
15 the same meaning as in Section 221 of the federal Small
16 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.
17 601).

18 (j) In addition to any other remedy or penalty that may
19 apply, whether civil or criminal, any person who violates
20 Section 22.52 of this Act shall be liable for an additional
21 civil penalty of up to 3 times the gross amount of any
22 pecuniary gain resulting from the violation.

23 (k) In addition to any other remedy or penalty that may
24 apply, whether civil or criminal, any person who violates
25 subdivision (a) (7.6) of Section 31 of this Act shall be liable
26 for an additional civil penalty of \$2,000.

1 (Source: P.A. 99-934, eff. 1-27-17; 100-436, eff. 8-25-17;
2 revised 1-22-18.)

3 (415 ILCS 5/58.19 new)

4 Sec. 58.19. Concentrations of inorganic chemicals in
5 background soils.

6 (a) No later than January 1, 2019, the Agency shall:

7 (1) review available peer-reviewed data and surveys
8 concerning the statewide area background concentrations of
9 the inorganic chemicals listed in Table G of Appendix A of
10 35 Ill. Adm. Code 742, including, but not limited to,
11 Illinois State Geological Survey Circular 590 (2017),
12 "Inorganic Chemical Composition of Illinois Soils";

13 (2) use the information reviewed under paragraph (1)
14 and one or more statistically valid methods to determine
15 the statewide area background concentrations of the
16 inorganic chemicals listed in Table G of Appendix A of 35
17 Ill. Adm. Code 742; and

18 (3) submit to the Board any proposed revisions to Table
19 G of Appendix A of 35 Ill. Adm. Code 742 that the Agency
20 deems necessary for the values in that table to reflect
21 statewide area background concentrations of the listed
22 chemicals.

23 (b) Within one year after receipt of the Agency's proposal,
24 the Board shall adopt revisions to Table G of Appendix A of 35
25 Ill. Adm. Code 742 that are based upon the proposal submitted

1 to the Board under subsection (a) of this Section.

2 (c) On and after the adoption of rules under subsection
3 (b), if a clean construction or demolition debris fill
4 operation or an uncontaminated soil fill operation is found to
5 have exceeded any of the concentrations under Table G of
6 Appendix A of 35 Ill. Adm. Code 742 on 3 separate occasions,
7 then the Agency may: (1) close the clean construction or
8 demolition debris fill operation or the uncontaminated soil
9 fill operation; or (2) impose groundwater monitoring on the
10 clean construction or demolition debris fill operation or the
11 uncontaminated soil fill operation. This subsection applies to
12 aggregate violations if an owner or operator owns or operates
13 multiple clean construction or demolition debris fill
14 operations or uncontaminated soil fill operations. The Agency
15 may adopt any rules necessary to implement this subsection.

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