

SB2380



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2380

Introduced 2/26/2021, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

415 ILCS 5/39

from Ch. 111 1/2, par. 1039

Amends the Environmental Protection Act. Makes a technical change in a Section concerning the issuance and procedures of permits.

LRB102 14555 CPF 19908 b

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 39 as follows:

6 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

7 Sec. 39. Issuance of permits; procedures.

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

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

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

14 (ii) the provision of the regulations, promulgated
15 under this Act, which may be violated if the permit were
16 granted;

17 (iii) the specific type of information, if any, which
18 the Agency deems the applicant did not provide the Agency;
19 and

20 (iv) a statement of specific reasons why the Act and
21 the regulations might not be met if the permit were
22 granted.

23 If there is no final action by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued; except that this time period shall
26 be extended to 180 days when (1) notice and opportunity for

1 public hearing are required by State or federal law or
2 regulation, (2) the application which was filed is for any
3 permit to develop a landfill subject to issuance pursuant to
4 this subsection, or (3) the application that was filed is for a
5 MSWLF unit required to issue public notice under subsection
6 (p) of Section 39. The 90-day and 180-day time periods for the
7 Agency to take final action do not apply to NPDES permit
8 applications under subsection (b) of this Section, to RCRA
9 permit applications under subsection (d) of this Section, to
10 UIC permit applications under subsection (e) of this Section,
11 or to CCR surface impoundment applications under subsection
12 (y) of this Section.

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

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

1 such a request. The Board shall revise its regulations for the
2 existing State air pollution operating permit program
3 consistent with this provision by January 1, 1994.

4 After June 30, 1998, operating permits issued under this
5 Section by the Agency for sources of air pollution that are not
6 subject to Section 39.5 of this Act and are not required to
7 have a federally enforceable State operating permit shall be
8 required to be renewed only upon written request by the Agency
9 consistent with applicable provisions of this Act and its
10 rules. Such operating permits shall expire 180 days after the
11 date of such a request. Before July 1, 1998, the Board shall
12 revise its rules for the existing State air pollution
13 operating permit program consistent with this paragraph and
14 shall adopt rules that require a source to demonstrate that it
15 qualifies for a permit under this paragraph.

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

21 All NPDES permits shall contain those terms and
22 conditions, including, but not limited to, schedules of
23 compliance, which may be required to accomplish the purposes
24 and provisions of this Act.

25 The Agency may issue general NPDES permits for discharges
26 from categories of point sources which are subject to the same

1 permit limitations and conditions. Such general permits may be
2 issued without individual applications and shall conform to
3 regulations promulgated under Section 402 of the Federal Water
4 Pollution Control Act, as now or hereafter amended.

5 The Agency may include, among such conditions, effluent
6 limitations and other requirements established under this Act,
7 Board regulations, the Federal Water Pollution Control Act, as
8 now or hereafter amended, and regulations pursuant thereto,
9 and schedules for achieving compliance therewith at the
10 earliest reasonable date.

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

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

23 (c) Except for those facilities owned or operated by
24 sanitary districts organized under the Metropolitan Water
25 Reclamation District Act, no permit for the development or
26 construction of a new pollution control facility may be

1 granted by the Agency unless the applicant submits proof to
2 the Agency that the location of the facility has been approved
3 by the county board ~~County Board~~ of the county if in an
4 unincorporated area, or the governing body of the municipality
5 when in an incorporated area, in which the facility is to be
6 located in accordance with Section 39.2 of this Act. For
7 purposes of this subsection (c), and for purposes of Section
8 39.2 of this Act, the appropriate county board or governing
9 body of the municipality shall be the county board of the
10 county or the governing body of the municipality in which the
11 facility is to be located as of the date when the application
12 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
22 county board or governing body of the municipality that
23 granted siting approval for that facility and upon any party
24 to the siting proceeding pursuant to which siting approval was
25 granted. In that event, the Agency shall conduct an evaluation
26 of the subsequent owner or operator's prior experience in

1 waste management operations in the manner conducted under
2 subsection (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

1 the location of the facility has been approved by the
2 appropriate county board or municipal governing body pursuant
3 to Section 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 ~~calendars~~ years, before that facility may
8 accept 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
11 the Agency for a permit authorizing the temporary suspension
12 of waste acceptance. The Agency may not issue a new operation
13 permit under this Act for the facility unless the applicant
14 has submitted proof to the Agency that the location of the
15 facility has been approved or re-approved by the appropriate
16 county board or municipal governing body under Section 39.2 of
17 this 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
16 made:

17 (1) the municipal waste transfer station was in
18 existence on or before January 1, 1979 and was in
19 continuous operation from January 1, 1979 to January 1,
20 1993;

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

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

1 municipality, if the station is in an incorporated area,
2 does not object to resumption of the operation of the
3 station; and

4 (4) the site has local zoning approval.

5 (d) The Agency may issue RCRA permits exclusively under
6 this subsection to persons owning or operating a facility for
7 the treatment, storage, or disposal of hazardous waste as
8 defined under this Act. Subsection (y) of this Section, rather
9 than this subsection (d), shall apply to permits issued for
10 CCR surface impoundments.

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

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

1 the safe operation of the incinerator.

2 The Agency shall adopt filing requirements and procedures
3 which are necessary and appropriate for the issuance of RCRA
4 permits, and which are consistent with the Act or regulations
5 adopted by the Board, and with the Resource Conservation and
6 Recovery Act of 1976 (P.L. 94-580), as amended, and
7 regulations pursuant thereto.

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

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

21 All UIC permits shall contain those terms and conditions,
22 including, but not limited to, schedules of compliance, which
23 may be required to accomplish the purposes and provisions of
24 this Act. The Agency may include among such conditions
25 standards and other requirements established under this Act,
26 Board regulations, the Safe Drinking Water Act (P.L. 93-523),

1 as amended, and regulations pursuant thereto, and may include
2 schedules for achieving compliance therewith. The Agency shall
3 require that a performance bond or other security be provided
4 as a condition for the issuance of a UIC permit.

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

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

19 (f) In making any determination pursuant to Section 9.1 of
20 this Act:

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

1 Control Technology, consistent with the Board's
2 regulations, if any.

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

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

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

23 (g) The Agency shall include as conditions upon all
24 permits issued for hazardous waste disposal sites such
25 restrictions upon the future use of such sites as are
26 reasonably necessary to protect public health and the

1 environment, including permanent prohibition of the use of
2 such sites for purposes which may create an unreasonable risk
3 of injury to human health or to the environment. After
4 administrative and judicial challenges to such restrictions
5 have been exhausted, the Agency shall file such restrictions
6 of record in the Office of the Recorder of the county in which
7 the hazardous waste disposal site is located.

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

1 the term "generator" has the meaning given in Section 3.205 of
2 this Act, unless: (1) the hazardous waste is treated,
3 incinerated, or partially recycled for reuse prior to
4 disposal, in which case the last person who treats,
5 incinerates, or partially recycles the hazardous waste prior
6 to disposal is the generator; or (2) the hazardous waste is
7 from a response action, in which case the person performing
8 the response action is the generator. This subsection (h) does
9 not apply to any hazardous waste that is restricted from land
10 disposal under 35 Ill. Adm. Code 728.

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

25 (1) repeated violations of federal, State, or local
26 laws, regulations, standards, or ordinances in the

1 operation of waste management facilities or sites, clean
2 construction or demolition debris fill operation
3 facilities or sites, or tire storage sites; or

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

12 (3) proof of gross carelessness or incompetence in
13 handling, storing, processing, transporting or disposing
14 of waste, clean construction or demolition debris, or used
15 or waste tires, or proof of gross carelessness or
16 incompetence in using clean construction or demolition
17 debris as fill.

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

1 authorization to provide to the Agency all of the information
2 necessary for the Agency to conduct its evaluation. The Agency
3 may deny a permit or interim authorization if previous
4 activities at the site may have caused or allowed
5 contamination at the site, unless such contamination is
6 authorized under any permit issued by the Agency.

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

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

24 (l) No permit shall be issued by the Agency under this Act
25 for construction or operation of any facility or site located
26 within the boundaries of any setback zone established pursuant

1 to this Act, where such construction or operation is
2 prohibited.

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

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

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

20 (3) the specific information, if any, the Agency deems
21 the applicant did not provide in its application to the
22 Agency; and

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

26 If no final action is taken by the Agency within 90 days

1 after the filing of the application for permit, the applicant
2 may deem the permit issued. Any applicant for a permit may
3 waive the 90-day limitation by filing a written statement with
4 the Agency.

5 The Agency shall issue permits for such facilities upon
6 receipt of an application that includes a legal description of
7 the site, a topographic map of the site drawn to the scale of
8 200 feet to the inch or larger, a description of the operation,
9 including the area served, an estimate of the volume of
10 materials to be processed, and documentation that:

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

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

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

23 (4) the design of the facility will prevent any
24 compost material from being placed within 5 feet of the
25 water table, will adequately control runoff from the site,
26 and will collect and manage any leachate that is generated

1 on the site;

2 (5) the operation of the facility will include
3 appropriate dust and odor control measures, limitations on
4 operating hours, appropriate noise control measures for
5 shredding, chipping and similar equipment, management
6 procedures for composting, containment and disposal of
7 non-compostable wastes, procedures to be used for
8 terminating operations at the site, and recordkeeping
9 sufficient to document the amount of materials received,
10 composted and otherwise disposed of; and

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

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

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

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

26 (o) (Blank.)

1 (p) (1) Any person submitting an application for a permit
2 for a new MSWLF unit or for a lateral expansion under
3 subsection (t) of Section 21 of this Act for an existing MSWLF
4 unit that has not received and is not subject to local siting
5 approval under Section 39.2 of this Act shall publish notice
6 of the application in a newspaper of general circulation in
7 the county in which the MSWLF unit is or is proposed to be
8 located. The notice must be published at least 15 days before
9 submission of the permit application to the Agency. The notice
10 shall state the name and address of the applicant, the
11 location of the MSWLF unit or proposed MSWLF unit, the nature
12 and size of the MSWLF unit or proposed MSWLF unit, the nature
13 of the activity proposed, the probable life of the proposed
14 activity, the date the permit application will be submitted,
15 and a statement that persons may file written comments with
16 the Agency concerning the permit application within 30 days
17 after the filing of the permit application unless the time
18 period to submit comments is extended by the Agency.

19 When a permit applicant submits information to the Agency
20 to supplement a permit application being reviewed by the
21 Agency, the applicant shall not be required to reissue the
22 notice under this subsection.

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

1 (3) Each applicant for a permit described in part (1) of
2 this subsection shall file a copy of the permit application
3 with the county board or governing body of the municipality in
4 which the MSWLF unit is or is proposed to be located at the
5 same time the application is submitted to the Agency. The
6 permit application filed with the county board or governing
7 body of the municipality shall include all documents submitted
8 to or to be submitted to the Agency, except trade secrets as
9 determined under Section 7.1 of this Act. The permit
10 application and other documents on file with the county board
11 or governing body of the municipality shall be made available
12 for public inspection during regular business hours at the
13 office of the county board or the governing body of the
14 municipality and may be copied upon payment of the actual cost
15 of reproduction.

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

23 (1) Checklists and guidance relating to the completion
24 of permit applications, developed pursuant to subsection
25 (s) of this Section, which may include, but are not
26 limited to, existing instructions for completing the

1 applications and examples of complete applications. As the
2 Agency develops new checklists and develops guidance, it
3 shall supplement the web portal with those materials.

4 (2) Within 2 years after July 12, 2011 (the effective
5 date of Public Act 97-95), permit application forms or
6 portions of permit applications that can be completed and
7 saved electronically, and submitted to the Agency
8 electronically with digital signatures.

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

24 (A) the number of applications received for each
25 type of permit, the number of applications on which
26 the Agency has taken action, and the number of

1 applications still pending; and

2 (B) for those applications where the Agency has
3 not taken action in accordance with the timeframes set
4 forth in this Act, the date the application was
5 received and the reasons for any delays, which may
6 include, but shall not be limited to, (i) the
7 application being inadequate or incomplete, (ii)
8 scientific or technical disagreements with the
9 applicant, USEPA, or other local, state, or federal
10 agencies involved in the permitting approval process,
11 (iii) public opposition to the permit, or (iv) Agency
12 staffing shortages. To the extent practicable, the
13 tracking report shall provide approximate dates when
14 cause for delay was identified by the Agency, when the
15 Agency informed the applicant of the problem leading
16 to the delay, and when the applicant remedied the
17 reason for the delay.

18 (r) Upon the request of the applicant, the Agency shall
19 notify the applicant of the permit analyst assigned to the
20 application upon its receipt.

21 (s) The Agency is authorized to prepare and distribute
22 guidance documents relating to its administration of this
23 Section and procedural rules implementing this Section.
24 Guidance documents prepared under this subsection shall not be
25 considered rules and shall not be subject to the Illinois
26 Administrative Procedure Act. Such guidance shall not be

1 binding on any party.

2 (t) Except as otherwise prohibited by federal law or
3 regulation, any person submitting an application for a permit
4 may include with the application suggested permit language for
5 Agency consideration. The Agency is not obligated to use the
6 suggested language or any portion thereof in its permitting
7 decision. If requested by the permit applicant, the Agency
8 shall meet with the applicant to discuss the suggested
9 language.

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

13 (v) If requested by the permit applicant, the Agency shall
14 provide the permit applicant with a copy of the final permit
15 prior to its issuance.

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

19 (x) If, before the expiration of a State operating permit
20 that is issued pursuant to subsection (a) of this Section and
21 contains federally enforceable conditions limiting the
22 potential to emit of the source to a level below the major
23 source threshold for that source so as to exclude the source
24 from the Clean Air Act Permit Program, the Agency receives a
25 complete application for the renewal of that permit, then all
26 of the terms and conditions of the permit shall remain in

1 effect until final administrative action has been taken on the
2 application for the renewal of the permit.

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

6 All CCR surface impoundment permits shall contain those
7 terms and conditions, including, but not limited to, schedules
8 of compliance, which may be required to accomplish the
9 purposes and provisions of this Act, Board regulations, the
10 Illinois Groundwater Protection Act and regulations pursuant
11 thereto, and the Resource Conservation and Recovery Act and
12 regulations pursuant thereto, and may include schedules for
13 achieving compliance therewith as soon as possible.

14 The Board shall adopt filing requirements and procedures
15 that are necessary and appropriate for the issuance of CCR
16 surface impoundment permits and that are consistent with this
17 Act or regulations adopted by the Board, and with the RCRA, as
18 amended, and regulations pursuant thereto.

19 The applicant shall make available to the public for
20 inspection all documents submitted by the applicant to the
21 Agency in furtherance of an application, with the exception of
22 trade secrets, on its public internet website as well as at the
23 office of the county board or governing body of the
24 municipality where CCR from the CCR surface impoundment will
25 be permanently disposed. Such documents may be copied upon
26 payment of the actual cost of reproduction during regular

1 business hours of the local office.

2 The Agency shall issue a written statement concurrent with
3 its grant or denial of the permit explaining the basis for its
4 decision.

5 (Source: P.A. 101-171, eff. 7-30-19; revised 9-12-19.)