



**Adopted in House Comm. on Nov 02, 2005**

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LRB094 06428 RSP 50235 a

1 AMENDMENT TO SENATE BILL 67

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 67 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 changing Sections 22.51 and 39 as follows:

6 (415 ILCS 5/22.51)

7 Sec. 22.51. Clean Construction or Demolition Debris Fill  
8 Operations.

9 (a) No person shall conduct any clean construction or  
10 demolition debris fill operation in violation of this Act or  
11 any regulations or standards adopted by the Board.

12 (b) (1) (A) Beginning 30 days after the effective date of  
13 this amendatory Act of the 94th General Assembly but prior to  
14 July 1, 2008, no person shall use clean construction or  
15 demolition debris as fill material in a current or former  
16 quarry, mine, or other excavation, unless they have applied for  
17 an interim authorization from the Agency for the clean  
18 construction or demolition debris fill operation.

19 (B) The Agency shall approve an interim authorization upon  
20 its receipt of a written application for the interim  
21 authorization that is signed by the site owner and the site  
22 operator, or their duly authorized agent, and that contains the  
23 following information: (i) the location of the site where the  
24 clean construction or demolition debris fill operation is

1 taking place, (ii) the name and address of the site owner,  
2 (iii) the name and address of the site operator, and (iv) the  
3 types and amounts of clean construction or demolition debris  
4 being used as fill material at the site.

5 (C) The Agency may deny an interim authorization if the  
6 site owner or the site operator, or their duly authorized  
7 agent, fails to provide to the Agency the information listed in  
8 subsection (b) (1) (B) of this Section. Any denial of an interim  
9 authorization shall be subject to appeal to the Board in  
10 accordance with the procedures of Section 40 of this Act.

11 (D) No person shall use clean construction or demolition  
12 debris as fill material in a current or former quarry, mine, or  
13 other excavation for which the Agency has denied interim  
14 authorization under subsection (b) (1) (C) of this Section. The  
15 Board may stay the prohibition of this subsection (D) during  
16 the pendency of an appeal of the Agency's denial of the interim  
17 authorization brought under subsection (b) (1) (C) of this  
18 Section.

19 (2) Beginning September 1, 2006, owners and operators of  
20 clean construction or demolition debris fill operations shall,  
21 in accordance with a schedule prescribed by the Agency, submit  
22 to the Agency applications for the permits required under this  
23 Section. The Agency shall notify owners and operators in  
24 writing of the due date for their permit application. The due  
25 date shall be no less than 90 days after the date of the  
26 Agency's written notification. Owners and operators who do not  
27 receive a written notification from the Agency by October 1,  
28 2007, shall submit a permit application to the Agency by  
29 January 1, 2008. The interim authorization of owners and  
30 operators who fail to submit a permit application to the Agency  
31 by the permit application's due date shall terminate on (i) the  
32 due date established by the Agency if the owner or operator  
33 received a written notification from the Agency prior to  
34 October 1, 2007, or (ii) or January 1, 2008, if the owner or

1 operator did not receive a written notification from the Agency  
2 by October 1, 2007.

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

12 (4) This subsection (b) does not apply to:

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

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

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

24 (c) In accordance with Title VII of this Act, the Board may  
25 adopt regulations to promote the purposes of this Section. The  
26 Agency shall consult with the mining and construction  
27 industries during the development of any regulations to promote  
28 the purposes of this Section.

29 (1) No later than December 15, 2005, the Agency shall  
30 propose to the Board, and no later than September 1, 2006,  
31 the Board shall adopt, regulations for the use of clean  
32 construction or demolition debris as fill material in  
33 current and former quarries, mines, and other excavations.  
34 Such regulations shall include, but shall not be limited

1 to, standards for clean construction or demolition debris  
2 fill operations and the submission and review of permits  
3 required under this Section.

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

8 (A) Assure that only clean construction or  
9 demolition debris is being used as fill material by  
10 screening each truckload of material received using a  
11 device approved by the Agency that detects volatile  
12 organic compounds. Such devices may include, but are  
13 not limited to, photo ionization detectors. All  
14 screening devices shall be operated and maintained in  
15 accordance with manufacturer's specifications.  
16 Unacceptable fill material shall be rejected from the  
17 site; and

18 (B) Retain for a minimum of 3 years the following  
19 information:

20 (i) The name of the hauler, the name of the  
21 generator, and place of origin of the debris or  
22 soil;

23 (ii) The approximate weight or volume of the  
24 debris or soil; and

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

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

29 (e) For purposes of a clean construction or demolition  
30 debris fill operation:

31 (1) The term "operator" means a person responsible for  
32 the operation and maintenance of a clean construction or  
33 demolition debris fill operation.

34 (2) The term "owner" means a person who has any direct

1       or indirect interest in a clean construction or demolition  
2       debris fill operation or in land on which a person operates  
3       and maintains a clean construction or demolition debris  
4       fill operation. A "direct or indirect interest" does not  
5       include the ownership of publicly traded stock. The "owner"  
6       is the "operator" if there is no other person who is  
7       operating and maintaining a clean construction or  
8       demolition debris fill operation.

9       (Source: P.A. 94-272, eff. 7-19-05.)

10       (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

11       Sec. 39. Issuance of permits; procedures.

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

1 Agency denies any permit under this Section, the Agency shall  
2 transmit to the applicant within the time limitations of this  
3 Section specific, detailed statements as to the reasons the  
4 permit application was denied. Such statements shall include,  
5 but not be limited to the following:

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

8 (ii) the provision of the regulations, promulgated  
9 under this Act, which may be violated if the permit were  
10 granted;

11 (iii) the specific type of information, if any, which  
12 the Agency deems the applicant did not provide the Agency;  
13 and

14 (iv) a statement of specific reasons why the Act and  
15 the regulations might not be met if the permit were  
16 granted.

17 If there is no final action by the Agency within 90 days  
18 after the filing of the application for permit, the applicant  
19 may deem the permit issued; except that this time period shall  
20 be extended to 180 days when (1) notice and opportunity for  
21 public hearing are required by State or federal law or  
22 regulation, (2) the application which was filed is for any  
23 permit to develop a landfill subject to issuance pursuant to  
24 this subsection, or (3) the application that was filed is for a  
25 MSWLF unit required to issue public notice under subsection (p)  
26 of Section 39. The 90-day and 180-day time periods for the  
27 Agency to take final action do not apply to NPDES permit  
28 applications under subsection (b) of this Section, to RCRA  
29 permit applications under subsection (d) of this Section, or to  
30 UIC permit applications under subsection (e) of this Section.

31 The Agency shall publish notice of all final permit  
32 determinations for development permits for MSWLF units and for  
33 significant permit modifications for lateral expansions for  
34 existing MSWLF units one time in a newspaper of general

1 circulation in the county in which the unit is or is proposed  
2 to be located.

3 After January 1, 1994 and until July 1, 1998, operating  
4 permits issued under this Section by the Agency for sources of  
5 air pollution permitted to emit less than 25 tons per year of  
6 any combination of regulated air pollutants, as defined in  
7 Section 39.5 of this Act, shall be required to be renewed only  
8 upon written request by the Agency consistent with applicable  
9 provisions of this Act and regulations promulgated hereunder.  
10 Such operating permits shall expire 180 days after the date of  
11 such a request. The Board shall revise its regulations for the  
12 existing State air pollution operating permit program  
13 consistent with this provision by January 1, 1994.

14 After June 30, 1998, operating permits issued under this  
15 Section by the Agency for sources of air pollution that are not  
16 subject to Section 39.5 of this Act and are not required to  
17 have a federally enforceable State operating permit shall be  
18 required to be renewed only upon written request by the Agency  
19 consistent with applicable provisions of this Act and its  
20 rules. Such operating permits shall expire 180 days after the  
21 date of such a request. Before July 1, 1998, the Board shall  
22 revise its rules for the existing State air pollution operating  
23 permit program consistent with this paragraph and shall adopt  
24 rules that require a source to demonstrate that it qualifies  
25 for a permit under this paragraph.

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

31 All NPDES permits shall contain those terms and conditions,  
32 including but not limited to schedules of compliance, which may  
33 be required to accomplish the purposes and provisions of this  
34 Act.

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

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

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

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

25           (c) Except for those facilities owned or operated by  
26 sanitary districts organized under the Metropolitan Water  
27 Reclamation District Act, no permit for the development or  
28 construction of a new pollution control facility may be granted  
29 by the Agency unless the applicant submits proof to the Agency  
30 that the location of the facility has been approved by the  
31 County Board of the county if in an unincorporated area, or the  
32 governing body of the municipality when in an incorporated  
33 area, in which the facility is to be located in accordance with  
34 Section 39.2 of this Act.



1           In the event that siting approval granted pursuant to  
2 Section 39.2 has been transferred to a subsequent owner or  
3 operator, that subsequent owner or operator may apply to the  
4 Agency for, and the Agency may grant, a development or  
5 construction permit for the facility for which local siting  
6 approval was granted. Upon application to the Agency for a  
7 development or construction permit by that subsequent owner or  
8 operator, the permit applicant shall cause written notice of  
9 the permit application to be served upon the appropriate county  
10 board or governing body of the municipality that granted siting  
11 approval for that facility and upon any party to the siting  
12 proceeding pursuant to which siting approval was granted. In  
13 that event, the Agency shall conduct an evaluation of the  
14 subsequent owner or operator's prior experience in waste  
15 management operations in the manner conducted under subsection  
16 (i) of Section 39 of this Act.

17           Beginning August 20, 1993, if the pollution control  
18 facility consists of a hazardous or solid waste disposal  
19 facility for which the proposed site is located in an  
20 unincorporated area of a county with a population of less than  
21 100,000 and includes all or a portion of a parcel of land that  
22 was, on April 1, 1993, adjacent to a municipality having a  
23 population of less than 5,000, then the local siting review  
24 required under this subsection (c) in conjunction with any  
25 permit applied for after that date shall be performed by the  
26 governing body of that adjacent municipality rather than the  
27 county board of the county in which the proposed site is  
28 located; and for the purposes of that local siting review, any  
29 references in this Act to the county board shall be deemed to  
30 mean the governing body of that adjacent municipality;  
31 provided, however, that the provisions of this paragraph shall  
32 not apply to any proposed site which was, on April 1, 1993,  
33 owned in whole or in part by another municipality.

34           In the case of a pollution control facility for which a

1 development permit was issued before November 12, 1981, if an  
2 operating permit has not been issued by the Agency prior to  
3 August 31, 1989 for any portion of the facility, then the  
4 Agency may not issue or renew any development permit nor issue  
5 an original operating permit for any portion of such facility  
6 unless the applicant has submitted proof to the Agency that the  
7 location of the facility has been approved by the appropriate  
8 county board or municipal governing body pursuant to Section  
9 39.2 of this Act.

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

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

32 Before beginning construction on any new sewage treatment  
33 plant or sludge drying site to be owned or operated by a  
34 sanitary district organized under the Metropolitan Water

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

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

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

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

21 (3) the operator can demonstrate that the county board  
22 of the county, if the municipal waste transfer station is  
23 in an unincorporated area, or the governing body of the  
24 municipality, if the station is in an incorporated area,  
25 does not object to resumption of the operation of the  
26 station; and

27 (4) the site has local zoning approval.

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

32 All RCRA permits shall contain those terms and conditions,  
33 including but not limited to schedules of compliance, which may  
34 be required to accomplish the purposes and provisions of this

1 Act. The Agency may include among such conditions standards and  
2 other requirements established under this Act, Board  
3 regulations, the Resource Conservation and Recovery Act of 1976  
4 (P.L. 94-580), as amended, and regulations pursuant thereto,  
5 and may include schedules for achieving compliance therewith as  
6 soon as possible. The Agency shall require that a performance  
7 bond or other security be provided as a condition for the  
8 issuance of a RCRA permit.

9 In the case of a permit to operate a hazardous waste or PCB  
10 incinerator as defined in subsection (k) of Section 44, the  
11 Agency shall require, as a condition of the permit, that the  
12 operator of the facility perform such analyses of the waste to  
13 be incinerated as may be necessary and appropriate to ensure  
14 the safe operation of the incinerator.

15 The Agency shall adopt filing requirements and procedures  
16 which are necessary and appropriate for the issuance of RCRA  
17 permits, and which are consistent with the Act or regulations  
18 adopted by the Board, and with the Resource Conservation and  
19 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations  
20 pursuant thereto.

21 The applicant shall make available to the public for  
22 inspection all documents submitted by the applicant to the  
23 Agency in furtherance of an application, with the exception of  
24 trade secrets, at the office of the county board or governing  
25 body of the municipality. Such documents may be copied upon  
26 payment of the actual cost of reproduction during regular  
27 business hours of the local office. The Agency shall issue a  
28 written statement concurrent with its grant or denial of the  
29 permit explaining the basis for its decision.

30 (e) The Agency may issue UIC permits exclusively under this  
31 subsection to persons owning or operating a facility for the  
32 underground injection of contaminants as defined under this  
33 Act.

34 All UIC permits shall contain those terms and conditions,

1 including but not limited to schedules of compliance, which may  
2 be required to accomplish the purposes and provisions of this  
3 Act. The Agency may include among such conditions standards and  
4 other requirements established under this Act, Board  
5 regulations, the Safe Drinking Water Act (P.L. 93-523), as  
6 amended, and regulations pursuant thereto, and may include  
7 schedules for achieving compliance therewith. The Agency shall  
8 require that a performance bond or other security be provided  
9 as a condition for the issuance of a UIC permit.

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

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

24 (f) In making any determination pursuant to Section 9.1 of  
25 this Act:

26 (1) The Agency shall have authority to make the  
27 determination of any question required to be determined by  
28 the Clean Air Act, as now or hereafter amended, this Act,  
29 or the regulations of the Board, including the  
30 determination of the Lowest Achievable Emission Rate,  
31 Maximum Achievable Control Technology, or Best Available  
32 Control Technology, consistent with the Board's  
33 regulations, if any.

34 (2) The Agency shall, after conferring with the

1 applicant, give written notice to the applicant of its  
2 proposed decision on the application including the terms  
3 and conditions of the permit to be issued and the facts,  
4 conduct or other basis upon which the Agency will rely to  
5 support its proposed action.

6 (3) Following such notice, the Agency shall give the  
7 applicant an opportunity for a hearing in accordance with  
8 the provisions of Sections 10-25 through 10-60 of the  
9 Illinois Administrative Procedure Act.

10 (g) The Agency shall include as conditions upon all permits  
11 issued for hazardous waste disposal sites such restrictions  
12 upon the future use of such sites as are reasonably necessary  
13 to protect public health and the environment, including  
14 permanent prohibition of the use of such sites for purposes  
15 which may create an unreasonable risk of injury to human health  
16 or to the environment. After administrative and judicial  
17 challenges to such restrictions have been exhausted, the Agency  
18 shall file such restrictions of record in the Office of the  
19 Recorder of the county in which the hazardous waste disposal  
20 site is located.

21 (h) A hazardous waste stream may not be deposited in a  
22 permitted hazardous waste site unless specific authorization  
23 is obtained from the Agency by the generator and disposal site  
24 owner and operator for the deposit of that specific hazardous  
25 waste stream. The Agency may grant specific authorization for  
26 disposal of hazardous waste streams only after the generator  
27 has reasonably demonstrated that, considering technological  
28 feasibility and economic reasonableness, the hazardous waste  
29 cannot be reasonably recycled for reuse, nor incinerated or  
30 chemically, physically or biologically treated so as to  
31 neutralize the hazardous waste and render it nonhazardous. In  
32 granting authorization under this Section, the Agency may  
33 impose such conditions as may be necessary to accomplish the  
34 purposes of the Act and are consistent with this Act and

1 regulations promulgated by the Board hereunder. If the Agency  
2 refuses to grant authorization under this Section, the  
3 applicant may appeal as if the Agency refused to grant a  
4 permit, pursuant to the provisions of subsection (a) of Section  
5 40 of this Act. For purposes of this subsection (h), the term  
6 "generator" has the meaning given in Section 3.205 of this Act,  
7 unless: (1) the hazardous waste is treated, incinerated, or  
8 partially recycled for reuse prior to disposal, in which case  
9 the last person who treats, incinerates, or partially recycles  
10 the hazardous waste prior to disposal is the generator; or (2)  
11 the hazardous waste is from a response action, in which case  
12 the person performing the response action is the generator.  
13 This subsection (h) does not apply to any hazardous waste that  
14 is restricted from land disposal under 35 Ill. Adm. Code 728.

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

27 (1) repeated violations of federal, State, or local  
28 laws, regulations, standards, or ordinances in the  
29 operation of waste management facilities or sites or clean  
30 construction or demolition debris fill operation  
31 facilities or sites; or

32 (2) conviction in this or another State of any crime  
33 which is a felony under the laws of this State, or  
34 conviction of a felony in a federal court; or conviction in

1       this or another state or federal court of any of the  
2       following crimes: forgery, official misconduct, bribery,  
3       perjury, or knowingly submitting false information under  
4       any environmental law, regulation, or permit term or  
5       condition; or

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

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

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

31       (k) A development permit issued under subsection (a) of  
32       Section 39 for any facility or site which is required to have a  
33       permit under subsection (d) of Section 21 shall expire at the  
34       end of 2 calendar years from the date upon which it was issued,



1 unless within that period the applicant has taken action to  
2 develop the facility or the site. In the event that review of  
3 the conditions of the development permit is sought pursuant to  
4 Section 40 or 41, or permittee is prevented from commencing  
5 development of the facility or site by any other litigation  
6 beyond the permittee's control, such two-year period shall be  
7 deemed to begin on the date upon which such review process or  
8 litigation is concluded.

9 (l) No permit shall be issued by the Agency under this Act  
10 for construction or operation of any facility or site located  
11 within the boundaries of any setback zone established pursuant  
12 to this Act, where such construction or operation is  
13 prohibited.

14 (m) The Agency may issue permits to persons owning or  
15 operating a facility for composting landscape waste. In  
16 granting such permits, the Agency may impose such conditions as  
17 may be necessary to accomplish the purposes of this Act, and as  
18 are not inconsistent with applicable regulations promulgated  
19 by the Board. Except as otherwise provided in this Act, a bond  
20 or other security shall not be required as a condition for the  
21 issuance of a permit. If the Agency denies any permit pursuant  
22 to this subsection, the Agency shall transmit to the applicant  
23 within the time limitations of this subsection specific,  
24 detailed statements as to the reasons the permit application  
25 was denied. Such statements shall include but not be limited to  
26 the following:

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

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

31 (3) the specific information, if any, the Agency deems  
32 the applicant did not provide in its application to the  
33 Agency; and

34 (4) a statement of specific reasons why the Act and the

1 regulations might be violated if the permit were granted.

2 If no final action is taken by the Agency within 90 days  
3 after the filing of the application for permit, the applicant  
4 may deem the permit issued. Any applicant for a permit may  
5 waive the 90 day limitation by filing a written statement with  
6 the Agency.

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

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

15 (2) the facility is located outside the boundary of the  
16 10-year floodplain or the site will be floodproofed;

17 (3) the facility is located so as to minimize  
18 incompatibility with the character of the surrounding  
19 area, including at least a 200 foot setback from any  
20 residence, and in the case of a facility that is developed  
21 or the permitted composting area of which is expanded after  
22 November 17, 1991, the composting area is located at least  
23 1/8 mile from the nearest residence (other than a residence  
24 located on the same property as the facility);

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

30 (5) the operation of the facility will include  
31 appropriate dust and odor control measures, limitations on  
32 operating hours, appropriate noise control measures for  
33 shredding, chipping and similar equipment, management  
34 procedures for composting, containment and disposal of

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

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

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

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

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

20 (o) (Blank.)

21 (p) (1) Any person submitting an application for a permit  
22 for a new MSWLF unit or for a lateral expansion under  
23 subsection (t) of Section 21 of this Act for an existing MSWLF  
24 unit that has not received and is not subject to local siting  
25 approval under Section 39.2 of this Act shall publish notice of  
26 the application in a newspaper of general circulation in the  
27 county in which the MSWLF unit is or is proposed to be located.  
28 The notice must be published at least 15 days before submission  
29 of the permit application to the Agency. The notice shall state  
30 the name and address of the applicant, the location of the  
31 MSWLF unit or proposed MSWLF unit, the nature and size of the  
32 MSWLF unit or proposed MSWLF unit, the nature of the activity  
33 proposed, the probable life of the proposed activity, the date  
34 the permit application will be submitted, and a statement that

1 persons may file written comments with the Agency concerning  
2 the permit application within 30 days after the filing of the  
3 permit application unless the time period to submit comments is  
4 extended by the Agency.

5 When a permit applicant submits information to the Agency  
6 to supplement a permit application being reviewed by the  
7 Agency, the applicant shall not be required to reissue the  
8 notice under this subsection.

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

13 (3) Each applicant for a permit described in part (1) of  
14 this subsection shall file a copy of the permit application  
15 with the county board or governing body of the municipality in  
16 which the MSWLF unit is or is proposed to be located at the  
17 same time the application is submitted to the Agency. The  
18 permit application filed with the county board or governing  
19 body of the municipality shall include all documents submitted  
20 to or to be submitted to the Agency, except trade secrets as  
21 determined under Section 7.1 of this Act. The permit  
22 application and other documents on file with the county board  
23 or governing body of the municipality shall be made available  
24 for public inspection during regular business hours at the  
25 office of the county board or the governing body of the  
26 municipality and may be copied upon payment of the actual cost  
27 of reproduction.

28 (Source: P.A. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05.)".