



Sen. Pamela J. Althoff

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1 AMENDMENT TO SENATE BILL 1028

2 AMENDMENT NO. _____. Amend Senate Bill 1028 as follows:

3 by replacing the title with the following:

4 "AN ACT concerning pollution control."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 10. The Environmental Protection Act is amended by
8 changing Sections 3.330 and 39 and by adding Section 22.51 as
9 follows:

10 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

11 Sec. 3.330. Pollution control facility.

12 (a) "Pollution control facility" is any waste storage site,
13 sanitary landfill, waste disposal site, waste transfer
14 station, waste treatment facility, or waste incinerator. This
15 includes sewers, sewage treatment plants, and any other
16 facilities owned or operated by sanitary districts organized
17 under the Metropolitan Water Reclamation District Act.

18 The following are not pollution control facilities:

19 (1) (Blank);

20 (2) waste storage sites regulated under 40 CFR, Part
21 761.42;

1 (3) sites or facilities used by any person conducting a
2 waste storage, waste treatment, waste disposal, waste
3 transfer or waste incineration operation, or a combination
4 thereof, for wastes generated by such person's own
5 activities, when such wastes are stored, treated, disposed
6 of, transferred or incinerated within the site or facility
7 owned, controlled or operated by such person, or when such
8 wastes are transported within or between sites or
9 facilities owned, controlled or operated by such person;

10 (4) sites or facilities at which the State is
11 performing removal or remedial action pursuant to Section
12 22.2 or 55.3;

13 (5) abandoned quarries used solely for the disposal of
14 concrete, earth materials, gravel, or aggregate debris
15 resulting from road construction activities conducted by a
16 unit of government or construction activities due to the
17 construction and installation of underground pipes, lines,
18 conduit or wires off of the premises of a public utility
19 company which are conducted by a public utility;

20 (6) sites or facilities used by any person to
21 specifically conduct a landscape composting operation;

22 (7) regional facilities as defined in the Central
23 Midwest Interstate Low-Level Radioactive Waste Compact;

24 (8) the portion of a site or facility where coal
25 combustion wastes are stored or disposed of in accordance
26 with subdivision (r) (2) or (r) (3) of Section 21;

27 (9) the portion of a site or facility used for the
28 collection, storage or processing of waste tires as defined
29 in Title XIV;

30 (10) the portion of a site or facility used for
31 treatment of petroleum contaminated materials by
32 application onto or incorporation into the soil surface and
33 any portion of that site or facility used for storage of
34 petroleum contaminated materials before treatment. Only

1 those categories of petroleum listed in Section 57.9(a)(3)
2 are exempt under this subdivision (10);

3 (11) the portion of a site or facility where used oil
4 is collected or stored prior to shipment to a recycling or
5 energy recovery facility, provided that the used oil is
6 generated by households or commercial establishments, and
7 the site or facility is a recycling center or a business
8 where oil or gasoline is sold at retail;

9 (12) the portion of a site or facility utilizing coal
10 combustion waste for stabilization and treatment of only
11 waste generated on that site or facility when used in
12 connection with response actions pursuant to the federal
13 Comprehensive Environmental Response, Compensation, and
14 Liability Act of 1980, the federal Resource Conservation
15 and Recovery Act of 1976, or the Illinois Environmental
16 Protection Act or as authorized by the Agency;

17 (13) the portion of a site or facility accepting
18 exclusively general construction or demolition debris,
19 located in a county with a population over 700,000, and
20 operated and located in accordance with Section 22.38 of
21 this Act; ~~and~~

22 (14) the portion of a site or facility, located within
23 a unit of local government that has enacted local zoning
24 requirements, used to accept, separate, and process
25 uncontaminated broken concrete, with or without protruding
26 metal bars, provided that the uncontaminated broken
27 concrete and metal bars are not speculatively accumulated,
28 are at the site or facility no longer than one year after
29 their acceptance, and are returned to the economic
30 mainstream in the form of raw materials or products; and ~~and~~

31 (15) the portion of a site or facility used for a
32 recycling, reclamation, or reuse operation subject to the
33 permitting requirements of Section 22.51(b) of this Act.

34 (b) A new pollution control facility is:

1 (1) a pollution control facility initially permitted
2 for development or construction after July 1, 1981; or

3 (2) the area of expansion beyond the boundary of a
4 currently permitted pollution control facility; or

5 (3) a permitted pollution control facility requesting
6 approval to store, dispose of, transfer or incinerate, for
7 the first time, any special or hazardous waste.

8 (Source: P.A. 92-574, eff. 6-26-02; 93-998, eff. 8-23-04.)

9 (415 ILCS 5/22.51 new)

10 Sec. 22.51. Recycling, reclamation, or reuse operations.

11 (a) No person shall conduct any recycling, reclamation, or
12 reuse operation in violation of this Act or any regulations or
13 standards adopted by the Board.

14 (b) On and after July 1, 2005, but prior to July 1, 2006,
15 no person shall conduct any recycling, reclamation, or reuse
16 operation unless the person has notified the Agency in writing
17 of the following: the name and address of the person or entity
18 conducting the recycling, reclamation, or reuse operation; the
19 location of the recycling, reclamation, or reuse operation; the
20 name and address of the site owner; and the types and amounts
21 of waste and other material being recycled, reclaimed, or
22 reused.

23 On and after July 1, 2006, but prior to July 1, 2008, no
24 person shall conduct any recycling, reclamation, or reuse
25 operation unless the person has filed an application with the
26 Agency for a permit for the recycling, reclamation, or reuse
27 operation.

28 On and after July 1, 2008, no person shall conduct any
29 recycling, reclamation, or reuse operation without a permit
30 granted by the Agency or in violation of any conditions imposed
31 by such permit, including periodic reports and full access to
32 adequate records and the inspection of facilities, as may be
33 necessary to assure compliance with this Act and with Board

1 regulations and standards adopted under this Act.

2 This subsection (b) does not apply to the following:

3 (i) a recycling, reclamation, or reuse operation for
4 which a permit has been issued under Section 21(d) of this
5 Act;

6 (ii) any person conducting a recycling, reclamation,
7 or reuse operation for waste or other material generated by
8 such person's own activities which is recycled, reclaimed,
9 or reused within the site where such waste or other
10 material is generated; and

11 (iii) a facility located in a county with a population
12 over 700,000 that is operated and located in accordance
13 with Section 22.38 of this Act and used exclusively for the
14 transfer, storage, or treatment of general construction or
15 demolition debris.

16 (c) In accordance with Title VII of this Act, the Board may
17 adopt regulations to promote the purposes of this Section.
18 Without limiting the generality of this authority, such
19 regulations may prescribe, among other things, the following:
20 standards for the location, design, construction, sanitation,
21 operation, maintenance, and closure of recycling, reclamation,
22 or reuse sites and facilities; standards for the handling,
23 storage, processing, transporting, or treatment of waste and
24 other material being recycled, reclaimed, or reused; standards
25 and requirements for the keeping of records and reporting of
26 data. The regulations may, but are not required to, provide for
27 the issuance of permits by operation of law for recycling,
28 reclamation, or reuse operations that are conducted in
29 accordance with this Act and the regulations and standards
30 adopted under this Act.

31 (d) This Section does not apply to the following:

32 (1) recycling, reclamation, or reuse operations where
33 more than 20% of the waste and other material accepted
34 annually is not returned to the economic mainstream in the

1 form of raw materials or products;

2 (2) recycling, reclamation, or reuse operations where
3 waste or other material not originally intended to be
4 burned or incinerated for energy recovery is burned or
5 incinerated or prepared for burning or incineration;

6 (3) recycling, reclamation, or reuse operations where
7 waste or other material is disposed of; and

8 (4) the recycling, reclamation, or reuse of clean
9 construction or demolition debris considered waste under
10 Section 3.160(c) of this Act.

11 Such operations shall be regulated under this Act and Board
12 regulations as waste-storage, waste-treatment, or
13 waste-disposal operations.

14 (e) This Section and the permitting requirements of Section
15 21(d) do not apply to recycling, reclamation, or reuse
16 operations that meet the following criteria:

17 (1) the recycling, reclamation, or reuse operation
18 recycles, reclaims, or reuses only dry paper (including,
19 but not limited to, newspapers, magazines, cardboard, and
20 office paper), glass, plastic, metal cans (including, but
21 not limited to, aluminum and steel cans), household
22 aluminum containers (including, but not limited to, pie
23 pans and baking pans), household aluminum foil, or
24 textiles;

25 (2) 80% or more of the waste and other material
26 accepted annually by the recycling, reclamation, or reuse
27 operation is returned to the economic mainstream in the
28 form of raw materials or products;

29 (3) the recycling, reclamation, or reuse operation
30 does not accept hazardous waste, special waste, or
31 hazardous substances; and

32 (4) the owner or operator of the recycling,
33 reclamation, or reuse operation has certified to the Agency
34 that the recycling, reclamation, or reuse operation meets

1 the criteria of this subsection (e); certifications to be
2 provided in a format prescribed by the Agency.

3 (f) This Section does not apply to hazardous waste.

4 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

5 Sec. 39. Issuance of permits; procedures.

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

33 (i) the Sections of this Act which may be violated if

1 the permit were granted;

2 (ii) the provision of the regulations, promulgated
3 under this Act, which may be violated if the permit were
4 granted;

5 (iii) the specific type of information, if any, which
6 the Agency deems the applicant did not provide the Agency;
7 and

8 (iv) a statement of specific reasons why the Act and
9 the regulations might not be met if the permit were
10 granted.

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

25 The Agency shall publish notice of all final permit
26 determinations for development permits for MSWLF units and for
27 significant permit modifications for lateral expansions for
28 existing MSWLF units one time in a newspaper of general
29 circulation in the county in which the unit is or is proposed
30 to be located.

31 After January 1, 1994 and until July 1, 1998, operating
32 permits issued under this Section by the Agency for sources of
33 air pollution permitted to emit less than 25 tons per year of
34 any combination of regulated air pollutants, as defined in

1 Section 39.5 of this Act, shall be required to be renewed only
2 upon written request by the Agency consistent with applicable
3 provisions of this Act and regulations promulgated hereunder.
4 Such operating permits shall expire 180 days after the date of
5 such a request. The Board shall revise its regulations for the
6 existing State air pollution operating permit program
7 consistent with this provision by January 1, 1994.

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

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

25 All NPDES permits shall contain those terms and conditions,
26 including but not limited to schedules of compliance, which may
27 be required to accomplish the purposes and provisions of this
28 Act.

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

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

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

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

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

29 In the event that siting approval granted pursuant to
30 Section 39.2 has been transferred to a subsequent owner or
31 operator, that subsequent owner or operator may apply to the
32 Agency for, and the Agency may grant, a development or
33 construction permit for the facility for which local siting
34 approval was granted. Upon application to the Agency for a

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

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

28 In the case of a pollution control facility for which a
29 development permit was issued before November 12, 1981, if an
30 operating permit has not been issued by the Agency prior to
31 August 31, 1989 for any portion of the facility, then the
32 Agency may not issue or renew any development permit nor issue
33 an original operating permit for any portion of such facility
34 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
27 plant or sludge drying site to be owned or operated by a
28 sanitary district organized under the Metropolitan Water
29 Reclamation District Act for which a new permit (rather than
30 the renewal or amendment of an existing permit) is required,
31 such sanitary district shall hold a public hearing within the
32 municipality within which the proposed facility is to be
33 located, or within the nearest community if the proposed
34 facility is to be located within an unincorporated area, at

1 which information concerning the proposed facility shall be
2 made available to the public, and members of the public shall
3 be given the opportunity to express their views concerning the
4 proposed facility.

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

8 (1) the municipal waste transfer station was in
9 existence on or before January 1, 1979 and was in
10 continuous operation from January 1, 1979 to January 1,
11 1993;

12 (2) the operator submitted a permit application to the
13 Agency to develop and operate the municipal waste transfer
14 station during April of 1994;

15 (3) the operator can demonstrate that the county board
16 of the county, if the municipal waste transfer station is
17 in an unincorporated area, or the governing body of the
18 municipality, if the station is in an incorporated area,
19 does not object to resumption of the operation of the
20 station; and

21 (4) the site has local zoning approval.

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

26 All RCRA permits shall contain those terms and conditions,
27 including but not limited to schedules of compliance, which may
28 be required to accomplish the purposes and provisions of this
29 Act. The Agency may include among such conditions standards and
30 other requirements established under this Act, Board
31 regulations, the Resource Conservation and Recovery Act of 1976
32 (P.L. 94-580), as amended, and regulations pursuant thereto,
33 and may include schedules for achieving compliance therewith as
34 soon as possible. The Agency shall require that a performance

1 bond or other security be provided as a condition for the
2 issuance of a RCRA permit.

3 In the case of a permit to operate a hazardous waste or PCB
4 incinerator as defined in subsection (k) of Section 44, the
5 Agency shall require, as a condition of the permit, that the
6 operator of the facility perform such analyses of the waste to
7 be incinerated as may be necessary and appropriate to ensure
8 the safe operation of the incinerator.

9 The Agency shall adopt filing requirements and procedures
10 which are necessary and appropriate for the issuance of RCRA
11 permits, and which are consistent with the Act or regulations
12 adopted by the Board, and with the Resource Conservation and
13 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
14 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 (e) The Agency may issue UIC permits exclusively under this
25 subsection to persons owning or operating a facility for the
26 underground injection of contaminants as defined under this
27 Act.

28 All UIC permits shall contain those terms and conditions,
29 including but not limited to schedules of compliance, which may
30 be required to accomplish the purposes and provisions of this
31 Act. The Agency may include among such conditions standards and
32 other requirements established under this Act, Board
33 regulations, the Safe Drinking Water Act (P.L. 93-523), as
34 amended, and regulations pursuant thereto, and may include

1 schedules for achieving compliance therewith. The Agency shall
2 require that a performance bond or other security be provided
3 as a condition for the issuance of a UIC permit.

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

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

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

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

28 (2) The Agency shall, after conferring with the
29 applicant, give written notice to the applicant of its
30 proposed decision on the application including the terms
31 and conditions of the permit to be issued and the facts,
32 conduct or other basis upon which the Agency will rely to
33 support its proposed action.

34 (3) Following such notice, the Agency shall give the

1 applicant an opportunity for a hearing in accordance with
2 the provisions of Sections 10-25 through 10-60 of the
3 Illinois Administrative Procedure Act.

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

15 (h) A hazardous waste stream may not be deposited in a
16 permitted hazardous waste site unless specific authorization
17 is obtained from the Agency by the generator and disposal site
18 owner and operator for the deposit of that specific hazardous
19 waste stream. The Agency may grant specific authorization for
20 disposal of hazardous waste streams only after the generator
21 has reasonably demonstrated that, considering technological
22 feasibility and economic reasonableness, the hazardous waste
23 cannot be reasonably recycled for reuse, nor incinerated or
24 chemically, physically or biologically treated so as to
25 neutralize the hazardous waste and render it nonhazardous. In
26 granting authorization under this Section, the Agency may
27 impose such conditions as may be necessary to accomplish the
28 purposes of the Act and are consistent with this Act and
29 regulations promulgated by the Board hereunder. If the Agency
30 refuses to grant authorization under this Section, the
31 applicant may appeal as if the Agency refused to grant a
32 permit, pursuant to the provisions of subsection (a) of Section
33 40 of this Act. For purposes of this subsection (h), the term
34 "generator" has the meaning given in Section 3.205 of this Act,

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

9 (i) Before issuing any RCRA permit or any permit for a
10 waste storage site, sanitary landfill, waste disposal site,
11 waste transfer station, waste treatment facility, waste
12 incinerator, or any waste-transportation operation, the Agency
13 shall conduct an evaluation of the prospective owner's or
14 operator's prior experience in waste management operations.
15 The Agency may deny such a permit if the prospective owner or
16 operator or any employee or officer of the prospective owner or
17 operator has a history of:

18 (1) repeated violations of federal, State, or local
19 laws, regulations, standards, or ordinances in the
20 operation of waste management facilities or sites; or

21 (2) conviction in this or another State of any crime
22 which is a felony under the laws of this State, or
23 conviction of a felony in a federal court; or

24 (3) proof of gross carelessness or incompetence in
25 handling, storing, processing, transporting or disposing
26 of waste.

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

32 (k) A development permit issued under subsection (a) of
33 Section 39 for any facility or site which is required to have a
34 permit under subsection (d) of Section 21 shall expire at the

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

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

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

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

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

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

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

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

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

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

16 (2) the facility is located outside the boundary of the
17 10-year floodplain or the site will be floodproofed;

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

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

31 (5) the operation of the facility will include
32 appropriate dust and odor control measures, limitations on
33 operating hours, appropriate noise control measures for
34 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
27 the application in a newspaper of general circulation in the
28 county in which the MSWLF unit is or is proposed to be located.
29 The notice must be published at least 15 days before submission
30 of the permit application to the Agency. The notice shall state
31 the name and address of the applicant, the location of the
32 MSWLF unit or proposed MSWLF unit, the nature and size of the
33 MSWLF unit or proposed MSWLF unit, the nature of the activity
34 proposed, the probable life of the proposed activity, the date

1 the permit application will be submitted, and a statement that
2 persons may file written comments with the Agency concerning
3 the permit application within 30 days after the filing of the
4 permit application unless the time period to submit comments is
5 extended by the Agency.

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

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

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

29 (q) Until such time as the Board adopts regulations
30 requiring a permit for a recycling, reclamation, or reuse
31 operation for which a permit is sought, the applicant shall
32 apply to the Agency for such a permit exclusively under this
33 subsection (q), and it shall be the duty of the Agency to issue
34 such a permit upon proof by the applicant of the following:

1 (1) the recycling, reclamation, or reuse operation
2 will not violate this Act or regulations or standards
3 adopted by the Board, and will otherwise adequately protect
4 human health and safety and the environment;

5 (2) the raw material or product created from the waste
6 or other material being recycled, reclaimed, or reused is
7 intended to function or serve as an effective substitute
8 for an analogous raw material or product;

9 (3) a market exists for the raw material or product
10 created from the waste or other material being recycled,
11 reclaimed, or reused;

12 (4) the waste or other material being recycled,
13 reclaimed, or reused is returned to the economic mainstream
14 as a raw material or product; and

15 (5) the recycling, reclamation, or reuse does not
16 constitute disposal.

17 In granting permits, the Agency may impose such conditions
18 as may be necessary to assure compliance with this Act and with
19 Board regulations and standards adopted under this Act.
20 Applications for permits submitted under this subsection (q)
21 shall be submitted on forms and contain the information and
22 data prescribed by the Agency.

23 Upon the Board's adoption of regulations requiring a permit
24 for a recycling, reclamation, or reuse operation for which a
25 permit is sought, the applicant shall apply to the Agency for
26 such a permit in accordance with subsection (a) of this Section
27 and Board regulations. Any permit issued for a recycling,
28 reclamation, or reuse operation under this subsection (q) shall
29 expire no later than one year after the date the Board adopts
30 rules requiring a permit for the recycling, reclamation, or
31 reuse operation.

32 This subsection (q) applies only to permits required under
33 Section 22.51(b) of this Act.

34 (Source: P.A. 92-574, eff. 6-26-02; 93-575, eff. 1-1-04.)"