



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2129

Introduced 10/19/2005, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.330	was 415 ILCS 5/3.32
415 ILCS 5/22.53 new	
415 ILCS 5/39	from Ch. 111 1/2, par. 1039

Amends the Environmental Protection Act. Provides that certain waste composting facilities are not pollution control facilities under the Act if materials used for composting at the facility are limited to certain materials (livestock waste, crop residue, uncontaminated wood waste, landscape waste, source separated food waste, and paper waste) in specified amounts (no more than 10,000 cubic yards of raw materials, composting material, or end-product compost on-site at any one time that uses only livestock waste, crop residue, uncontaminated wood waste, and landscape waste as raw materials for composting, or that has no more than 30,000 cubic yards if the compost facility is part of a required Waste Management Plan that has been developed in accordance with the standards of the Livestock Management Facilities Act and meets certain other conditions, or no more than 5,000 cubic yards of raw materials, composting material, or end-product compost on-site at any one time, that uses source separated food waste, paper waste, livestock waste, uncontaminated wood waste, and landscape waste). Provides that facilities used for recycling, reclamation, or reuse operations are not pollution control facilities under the Act if operating under an Agency issued permit for these operations. Sets forth a program of phased in requirements for conducting recycling, reclamation, or reuse operations. Provides that on and after July 1, 2008 no person may conduct any recycling, reclamation, or reuse operation without an Agency issued permit authorizing the activity. Sets forth certain criterion for the permits and exempts certain kinds of recycling operations from the permit requirements. Provides for the Pollution Control Board to adopt regulations for the recycling permit program. Sets forth certain conditions upon which the Agency shall issue permits under this program. Effective immediately.

LRB094 13234 RSP 48088 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 3.330 and 39 and by adding Section 22.53 as
6 follows:

7 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

8 Sec. 3.330. Pollution control facility.

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

15 The following are not pollution control facilities:

16 (1) (Blank);

17 (2) waste storage sites regulated under 40 CFR, Part
18 761.42;

19 (3) sites or facilities used by any person conducting a
20 waste storage, waste treatment, waste disposal, waste
21 transfer or waste incineration operation, or a combination
22 thereof, for wastes generated by such person's own
23 activities, when such wastes are stored, treated, disposed
24 of, transferred or incinerated within the site or facility
25 owned, controlled or operated by such person, or when such
26 wastes are transported within or between sites or
27 facilities owned, controlled or operated by such person;

28 (4) sites or facilities at which the State is
29 performing removal or remedial action pursuant to Section
30 22.2 or 55.3;

31 (5) abandoned quarries used solely for the disposal of
32 concrete, earth materials, gravel, or aggregate debris

1 resulting from road construction activities conducted by a
2 unit of government or construction activities due to the
3 construction and installation of underground pipes, lines,
4 conduit or wires off of the premises of a public utility
5 company which are conducted by a public utility;

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

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

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

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

16 (10) the portion of a site or facility used for
17 treatment of petroleum contaminated materials by
18 application onto or incorporation into the soil surface and
19 any portion of that site or facility used for storage of
20 petroleum contaminated materials before treatment. Only
21 those categories of petroleum listed in Section 57.9(a) (3)
22 are exempt under this subdivision (10);

23 (11) the portion of a site or facility where used oil
24 is collected or stored prior to shipment to a recycling or
25 energy recovery facility, provided that the used oil is
26 generated by households or commercial establishments, and
27 the site or facility is a recycling center or a business
28 where oil or gasoline is sold at retail;

29 (12) the portion of a site or facility utilizing coal
30 combustion waste for stabilization and treatment of only
31 waste generated on that site or facility when used in
32 connection with response actions pursuant to the federal
33 Comprehensive Environmental Response, Compensation, and
34 Liability Act of 1980, the federal Resource Conservation
35 and Recovery Act of 1976, or the Illinois Environmental
36 Protection Act or as authorized by the Agency;

1 (13) the portion of a site or facility accepting
2 exclusively general construction or demolition debris,
3 located in a county with a population over 700,000 as of
4 January 1, 2000, and operated and located in accordance
5 with Section 22.38 of this Act;

6 (14) the portion of a site or facility, located within
7 a unit of local government that has enacted local zoning
8 requirements, used to accept, separate, and process
9 uncontaminated broken concrete, with or without protruding
10 metal bars, provided that the uncontaminated broken
11 concrete and metal bars are not speculatively accumulated,
12 are at the site or facility no longer than one year after
13 their acceptance, and are returned to the economic
14 mainstream in the form of raw materials or products; ~~and~~

15 (15) the portion of a site or facility located in a
16 county with a population over 3,000,000 that has obtained
17 local siting approval under Section 39.2 of this Act for a
18 municipal waste incinerator on or before July 1, 2005 and
19 that is used for a non-hazardous waste transfer station; ~~and~~

20 (16) the portion of a site or facility, that has no
21 more than 10,000 cubic yards of raw materials, composting
22 material, or end-product compost on-site at any one time
23 that uses only livestock waste, crop residue,
24 uncontaminated wood waste, and landscape waste as raw
25 materials for composting, or that has no more than 30,000
26 cubic yards if the compost facility is part of a required
27 Waste Management Plan that has been developed in accordance
28 with the standards of the Livestock Management Facilities
29 Act that meets the following:

30 (i) the location criteria of Section 39(m)(1)
31 through (m)(4);

32 (ii) the location criteria of 35 Ill. Admin. Code
33 Part 830.203(a)(3); and

34 (iii) that is permitted under 35 Ill. Admin. Code
35 Part 807;

36 (17) the portion of a site or facility, that has no

1 more than 5,000 cubic yards of raw materials, composting
2 material, or end-product compost on-site at any one time,
3 that uses source separated food waste, paper waste,
4 including, but not limited to, corrugated and cardboard,
5 livestock waste, uncontaminated wood waste, and landscape
6 waste as raw materials for composting and meets the
7 location criteria of 39(m)(1) through (4) and 35 Ill.
8 Admin. Code Part 830.203(a)(3). For purposes of this
9 Section, "food waste" means the source separated organic
10 portion of the waste resulting from the handling,
11 processing, preparation, cooking, and consumption of food,
12 and the wastes from the handling, processing, storage, and
13 sale of produce. "Food waste" does not include packaging,
14 utensils, or containers from the handling, processing,
15 preparation, cooking, and consumption of food; and

16 (18) the portion of a site or facility used for a
17 recycling, reclamation, or reuse operation subject to the
18 permitting requirements of Section 22.53(b) of this Act.

19 (b) A new pollution control facility is:

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

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

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

27 (Source: P.A. 93-998, eff. 8-23-04; 94-94, eff. 7-1-05; 94-249,
28 eff. 7-19-05; revised 8-18-05.)

29 (415 ILCS 5/22.53 new)

30 Sec. 22.53. Recycling, reclamation, or reuse operations.

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

34 (b) On and after July 1, 2005, but prior to July 1, 2006,
35 no person shall conduct any recycling, reclamation, or reuse

1 operation unless the person has notified the Agency in writing
2 of the following: the name and address of the person or entity
3 conducting the recycling, reclamation, or reuse operation; the
4 location of the recycling, reclamation, or reuse operation; the
5 name and address of the site owner; and the types and amounts
6 of waste and other material being recycled, reclaimed, or
7 reused.

8 On and after July 1, 2006, but prior to July 1, 2008, no
9 person shall conduct any recycling, reclamation, or reuse
10 operation unless the person has filed an application with the
11 Agency for a permit for the recycling, reclamation, or reuse
12 operation.

13 On and after July 1, 2008, no person shall conduct any
14 recycling, reclamation, or reuse operation without a permit
15 granted by the Agency or in violation of any conditions imposed
16 by such permit, including periodic reports and full access to
17 adequate records and the inspection of facilities, as may be
18 necessary to assure compliance with this Act and with Board
19 regulations and standards adopted under this Act.

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

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

24 (ii) any person conducting a recycling, reclamation,
25 or reuse operation for waste or other material generated by
26 such person's own activities which is recycled, reclaimed,
27 or reused within the site where such waste or other
28 material is generated; and

29 (iii) a facility located in a county with a population
30 over 700,000 that is operated and located in accordance
31 with Section 22.38 of this Act and used exclusively for the
32 transfer, storage, or treatment of general construction or
33 demolition debris.

34 (c) In accordance with Title VII of this Act, the Board may
35 adopt regulations to promote the purposes of this Section.
36 Without limiting the generality of this authority, such

1 regulations may prescribe, among other things, the following:
2 standards for the location, design, construction, sanitation,
3 operation, maintenance, and closure of recycling, reclamation,
4 or reuse sites and facilities; standards for the handling,
5 storage, processing, transporting, or treatment of waste and
6 other material being recycled, reclaimed, or reused; standards
7 and requirements for the keeping of records and reporting of
8 data. The regulations may, but are not required to, provide for
9 the issuance of permits by operation of law for recycling,
10 reclamation, or reuse operations that are conducted in
11 accordance with this Act and the regulations and standards
12 adopted under this Act.

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

14 (1) recycling, reclamation, or reuse operations where
15 more than 20% of the waste and other material accepted
16 annually is not returned to the economic mainstream in the
17 form of raw materials or products;

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

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

24 (4) the recycling, reclamation, or reuse of clean
25 construction or demolition debris considered waste under
26 Section 3.160(c) of this Act.

27 Such operations shall be regulated under this Act and Board
28 regulations as waste-storage, waste-treatment, or
29 waste-disposal operations.

30 (e) This Section and the permitting requirements of Section
31 21(d) do not apply to recycling, reclamation, or reuse
32 operations that meet the following criteria:

33 (1) the recycling, reclamation, or reuse operation
34 recycles, reclaims, or reuses only dry paper (including,
35 but not limited to, newspapers, magazines, cardboard, and
36 office paper), glass, plastic, metal cans (including, but

1 not limited to, aluminum and steel cans), household
2 aluminum containers (including, but not limited to, pie
3 pans and baking pans), household aluminum foil, or
4 textiles;

5 (2) 80% or more of the waste and other material
6 accepted annually by the recycling, reclamation, or reuse
7 operation is returned to the economic mainstream in the
8 form of raw materials or products;

9 (3) the recycling, reclamation, or reuse operation
10 does not accept hazardous waste, special waste, or
11 hazardous substances; and

12 (4) the owner or operator of the recycling,
13 reclamation, or reuse operation has certified to the Agency
14 that the recycling, reclamation, or reuse operation meets
15 the criteria of this subsection (e); certifications to be
16 provided in a format prescribed by the Agency.

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

18 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

19 Sec. 39. Issuance of permits; procedures.

20 (a) When the Board has by regulation required a permit for
21 the construction, installation, or operation of any type of
22 facility, equipment, vehicle, vessel, or aircraft, the
23 applicant shall apply to the Agency for such permit and it
24 shall be the duty of the Agency to issue such a permit upon
25 proof by the applicant that the facility, equipment, vehicle,
26 vessel, or aircraft will not cause a violation of this Act or
27 of regulations hereunder. The Agency shall adopt such
28 procedures as are necessary to carry out its duties under this
29 Section. In making its determinations on permit applications
30 under this Section the Agency may consider prior adjudications
31 of noncompliance with this Act by the applicant that involved a
32 release of a contaminant into the environment. In granting
33 permits, the Agency may impose reasonable conditions
34 specifically related to the applicant's past compliance
35 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
27 public hearing are required by State or federal law or
28 regulation, (2) the application which was filed is for any
29 permit to develop a landfill subject to issuance pursuant to
30 this subsection, or (3) the application that was filed is for a
31 MSWLF unit required to issue public notice under subsection (p)
32 of Section 39. The 90-day and 180-day time periods for the
33 Agency to take final action do not apply to NPDES permit
34 applications under subsection (b) of this Section, to RCRA
35 permit applications under subsection (d) of this Section, or to
36 UIC permit applications under subsection (e) of this Section.

1 The Agency shall publish notice of all final permit
2 determinations for development permits for MSWLF units and for
3 significant permit modifications for lateral expansions for
4 existing MSWLF units one time in a newspaper of general
5 circulation in the county in which the unit is or is proposed
6 to be located.

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

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

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

35 All NPDES permits shall contain those terms and conditions,
36 including but not limited to schedules of compliance, which may

1 be required to accomplish the purposes and provisions of this
2 Act.

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

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

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

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

27 (c) Except for those facilities owned or operated by
28 sanitary districts organized under the Metropolitan Water
29 Reclamation District Act, no permit for the development or
30 construction of a new pollution control facility may be granted
31 by the Agency unless the applicant submits proof to the Agency
32 that the location of the facility has been approved by the
33 County Board of the county if in an unincorporated area, or the
34 governing body of the municipality when in an incorporated
35 area, in which the facility is to be located in accordance with
36 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
35 development permit was issued before November 12, 1981, if an
36 operating permit has not been issued by the Agency prior to

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

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

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

30 Before beginning construction on any new sewage treatment
31 plant or sludge drying site to be owned or operated by a
32 sanitary district organized under the Metropolitan Water
33 Reclamation District Act for which a new permit (rather than
34 the renewal or amendment of an existing permit) is required,
35 such sanitary district shall hold a public hearing within the
36 municipality within which the proposed facility is to be

1 located, or within the nearest community if the proposed
2 facility is to be located within an unincorporated area, at
3 which information concerning the proposed facility shall be
4 made available to the public, and members of the public shall
5 be given the opportunity to express their views concerning the
6 proposed facility.

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

10 (1) the municipal waste transfer station was in
11 existence on or before January 1, 1979 and was in
12 continuous operation from January 1, 1979 to January 1,
13 1993;

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

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

23 (4) the site has local zoning approval.

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

28 All RCRA 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 Resource Conservation and Recovery Act of 1976
34 (P.L. 94-580), as amended, and regulations pursuant thereto,
35 and may include schedules for achieving compliance therewith as
36 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
35 schedules for achieving compliance therewith. The Agency shall
36 require that a performance bond or other security be provided

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

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

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

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

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

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

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

36 (g) The Agency shall include as conditions upon all permits

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

11 (h) A hazardous waste stream may not be deposited in a
12 permitted hazardous waste site unless specific authorization
13 is obtained from the Agency by the generator and disposal site
14 owner and operator for the deposit of that specific hazardous
15 waste stream. The Agency may grant specific authorization for
16 disposal of hazardous waste streams only after the generator
17 has reasonably demonstrated that, considering technological
18 feasibility and economic reasonableness, the hazardous waste
19 cannot be reasonably recycled for reuse, nor incinerated or
20 chemically, physically or biologically treated so as to
21 neutralize the hazardous waste and render it nonhazardous. In
22 granting authorization under this Section, the Agency may
23 impose such conditions as may be necessary to accomplish the
24 purposes of the Act and are consistent with this Act and
25 regulations promulgated by the Board hereunder. If the Agency
26 refuses to grant authorization under this Section, the
27 applicant may appeal as if the Agency refused to grant a
28 permit, pursuant to the provisions of subsection (a) of Section
29 40 of this Act. For purposes of this subsection (h), the term
30 "generator" has the meaning given in Section 3.205 of this Act,
31 unless: (1) the hazardous waste is treated, incinerated, or
32 partially recycled for reuse prior to disposal, in which case
33 the last person who treats, incinerates, or partially recycles
34 the hazardous waste prior to disposal is the generator; or (2)
35 the hazardous waste is from a response action, in which case
36 the person performing the response action is the generator.

1 This subsection (h) does not apply to any hazardous waste that
2 is restricted from land disposal under 35 Ill. Adm. Code 728.

3 (i) Before issuing any RCRA permit, any permit for a waste
4 storage site, sanitary landfill, waste disposal site, waste
5 transfer station, waste treatment facility, waste incinerator,
6 or any waste-transportation operation, or any permit for a
7 clean construction or demolition debris fill operation, the
8 Agency shall conduct an evaluation of the prospective owner's
9 or operator's prior experience in waste management operations.
10 The Agency may deny such a permit if the prospective owner or
11 operator or any employee or officer of the prospective owner or
12 operator has a history of:

13 (1) repeated violations of federal, State, or local
14 laws, regulations, standards, or ordinances in the
15 operation of waste management facilities or sites; or

16 (2) conviction in this or another State of any crime
17 which is a felony under the laws of this State, or
18 conviction of a felony in a federal court; or

19 (3) proof of gross carelessness or incompetence in
20 handling, storing, processing, transporting or disposing
21 of waste.

22 (i-5) Before issuing any permit or approving any interim
23 authorization for a clean construction or demolition debris
24 fill operation in which any ownership interest is transferred
25 between January 1, 2005, and the effective date of the
26 prohibition set forth in Section 22.52 of this Act, the Agency
27 shall conduct an evaluation of the operation if any previous
28 activities at the site or facility may have caused or allowed
29 contamination of the site. It shall be the responsibility of
30 the owner or operator seeking the permit or interim
31 authorization to provide to the Agency all of the information
32 necessary for the Agency to conduct its evaluation. The Agency
33 may deny a permit or interim authorization if previous
34 activities at the site may have caused or allowed contamination
35 at the site, unless such contamination is authorized under any
36 permit issued by the Agency.

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

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

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

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

36 (1) the Sections of this Act that may be violated if

1 the permit were granted;

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

4 (3) the specific information, if any, the Agency deems
5 the applicant did not provide in its application to the
6 Agency; and

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

9 If no final action is taken by the Agency within 90 days
10 after the filing of the application for permit, the applicant
11 may deem the permit issued. Any applicant for a permit may
12 waive the 90 day limitation by filing a written statement with
13 the Agency.

14 The Agency shall issue permits for such facilities upon
15 receipt of an application that includes a legal description of
16 the site, a topographic map of the site drawn to the scale of
17 200 feet to the inch or larger, a description of the operation,
18 including the area served, an estimate of the volume of
19 materials to be processed, and documentation that:

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

22 (2) the facility is located outside the boundary of the
23 10-year floodplain or the site will be floodproofed;

24 (3) the facility is located so as to minimize
25 incompatibility with the character of the surrounding
26 area, including at least a 200 foot setback from any
27 residence, and in the case of a facility that is developed
28 or the permitted composting area of which is expanded after
29 November 17, 1991, the composting area is located at least
30 1/8 mile from the nearest residence (other than a residence
31 located on the same property as the facility);

32 (4) the design of the facility will prevent any compost
33 material from being placed within 5 feet of the water
34 table, will adequately control runoff from the site, and
35 will collect and manage any leachate that is generated on
36 the site;

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

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

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

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

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

25 (o) (Blank.)

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

1 MSWLF unit or proposed MSWLF unit, the nature of the activity
2 proposed, the probable life of the proposed activity, the date
3 the permit application will be submitted, and a statement that
4 persons may file written comments with the Agency concerning
5 the permit application within 30 days after the filing of the
6 permit application unless the time period to submit comments is
7 extended by the Agency.

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

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

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

31 (q) Until such time as the Board adopts regulations
32 requiring a permit for a recycling, reclamation, or reuse
33 operation for which a permit is sought, the applicant shall
34 apply to the Agency for such a permit exclusively under this
35 subsection (q), and it shall be the duty of the Agency to issue
36 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. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05.)

35 Section 99. Effective date. This Act takes effect upon

1 becoming law.