



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3344

Introduced 2/10/2010, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

415 ILCS 5/4	from Ch. 111 1/2, par. 1004
415 ILCS 5/39	from Ch. 111 1/2, par. 1039
415 ILCS 5/39.6 new	

Amends the Environmental Protection Act. Requires the Illinois Environmental Protection Agency, without public notice, to provide permit applicants with an opportunity to review and comment on draft permits. Authorizes the Agency, without public notice, to modify draft permits. Requires the Agency, to the maximum extent possible, to issue general (rather than site-specific) air permits. Requires the Agency to expedite NPDES permit renewals if certain requirements are met. Authorizes the Illinois Pollution Control Board to adopt rules providing for the issuance of air permits by rule, if it deems that a class of facilities or equipment does not "make a significant contribution of air contaminants to the atmosphere". Requires the Agency to issue permits to the owners or operators of facilities or equipment meeting the requirements of the rules adopted by the Board. Requires the Agency to create common company identification numbers to be used agency-wide to refer to companies that do business in the State. Requires the Agency to create a permit streamlining unit.

LRB096 19292 JDS 34683 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 4 and 39 and by adding Section 39.6 as
6 follows:

7 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

8 Sec. 4. Environmental Protection Agency; establishment;
9 duties.

10 (a) There is established in the Executive Branch of the
11 State Government an agency to be known as the Environmental
12 Protection Agency. This Agency shall be under the supervision
13 and direction of a Director who shall be appointed by the
14 Governor with the advice and consent of the Senate. The term of
15 office of the Director shall expire on the third Monday of
16 January in odd numbered years, provided that he or she shall
17 hold office until a successor is appointed and has qualified.
18 The Director shall receive an annual salary as set by the
19 Compensation Review Board. The Director, in accord with the
20 Personnel Code, shall employ and direct such personnel, and
21 shall provide for such laboratory and other facilities, as may
22 be necessary to carry out the purposes of this Act. In
23 addition, the Director may by agreement secure such services as

1 he or she may deem necessary from any other department, agency,
2 or unit of the State Government, and may employ and compensate
3 such consultants and technical assistants as may be required.

4 (b) The Agency shall have the duty to collect and
5 disseminate such information, acquire such technical data, and
6 conduct such experiments as may be required to carry out the
7 purposes of this Act, including ascertainment of the quantity
8 and nature of discharges from any contaminant source and data
9 on those sources, and to operate and arrange for the operation
10 of devices for the monitoring of environmental quality.

11 (c) The Agency shall have authority to conduct a program of
12 continuing surveillance and of regular or periodic inspection
13 of actual or potential contaminant or noise sources, of public
14 water supplies, and of refuse disposal sites.

15 (d) In accordance with constitutional limitations, the
16 Agency shall have authority to enter at all reasonable times
17 upon any private or public property for the purpose of:

18 (1) Inspecting and investigating to ascertain possible
19 violations of this Act, any rule or regulation adopted
20 under this Act, any permit or term or condition of a
21 permit, or any Board order; or

22 (2) In accordance with the provisions of this Act,
23 taking whatever preventive or corrective action, including
24 but not limited to removal or remedial action, that is
25 necessary or appropriate whenever there is a release or a
26 substantial threat of a release of (A) a hazardous

1 substance or pesticide or (B) petroleum from an underground
2 storage tank.

3 (e) The Agency shall have the duty to investigate
4 violations of this Act, any rule or regulation adopted under
5 this Act, any permit or term or condition of a permit, or any
6 Board order; to issue administrative citations as provided in
7 Section 31.1 of this Act; and to take such summary enforcement
8 action as is provided for by Section 34 of this Act.

9 (f) The Agency shall appear before the Board in any hearing
10 upon a petition for variance, the denial of a permit, or the
11 validity or effect of a rule or regulation of the Board, and
12 shall have the authority to appear before the Board in any
13 hearing under the Act.

14 (g) The Agency shall have the duty to administer, in accord
15 with Title X of this Act, such permit and certification systems
16 as may be established by this Act or by regulations adopted
17 thereunder. The Agency may enter into written delegation
18 agreements with any department, agency, or unit of State or
19 local government under which all or portions of this duty may
20 be delegated for public water supply storage and transport
21 systems, sewage collection and transport systems, air
22 pollution control sources with uncontrolled emissions of 100
23 tons per year or less and application of algicides to waters of
24 the State. Such delegation agreements will require that the
25 work to be performed thereunder will be in accordance with
26 Agency criteria, subject to Agency review, and shall include

1 such financial and program auditing by the Agency as may be
2 required.

3 (h) The Agency shall have authority to require the
4 submission of complete plans and specifications from any
5 applicant for a permit required by this Act or by regulations
6 thereunder, and to require the submission of such reports
7 regarding actual or potential violations of this Act, any rule
8 or regulation adopted under this Act, any permit or term or
9 condition of a permit, or any Board order, as may be necessary
10 for the purposes of this Act.

11 (i) The Agency shall have authority to make recommendations
12 to the Board for the adoption of regulations under Title VII of
13 the Act.

14 (j) The Agency shall have the duty to represent the State
15 of Illinois in any and all matters pertaining to plans,
16 procedures, or negotiations for interstate compacts or other
17 governmental arrangements relating to environmental
18 protection.

19 (k) The Agency shall have the authority to accept, receive,
20 and administer on behalf of the State any grants, gifts, loans,
21 indirect cost reimbursements, or other funds made available to
22 the State from any source for purposes of this Act or for air
23 or water pollution control, public water supply, solid waste
24 disposal, noise abatement, or other environmental protection
25 activities, surveys, or programs. Any federal funds received by
26 the Agency pursuant to this subsection shall be deposited in a

1 trust fund with the State Treasurer and held and disbursed by
2 him in accordance with Treasurer as Custodian of Funds Act,
3 provided that such monies shall be used only for the purposes
4 for which they are contributed and any balance remaining shall
5 be returned to the contributor.

6 The Agency is authorized to promulgate such regulations and
7 enter into such contracts as it may deem necessary for carrying
8 out the provisions of this subsection.

9 (1) The Agency is hereby designated as water pollution
10 agency for the state for all purposes of the Federal Water
11 Pollution Control Act, as amended; as implementing agency for
12 the State for all purposes of the Safe Drinking Water Act,
13 Public Law 93-523, as now or hereafter amended, except Section
14 1425 of that Act; as air pollution agency for the state for all
15 purposes of the Clean Air Act of 1970, Public Law 91-604,
16 approved December 31, 1970, as amended; and as solid waste
17 agency for the state for all purposes of the Solid Waste
18 Disposal Act, Public Law 89-272, approved October 20, 1965, and
19 amended by the Resource Recovery Act of 1970, Public Law
20 91-512, approved October 26, 1970, as amended, and amended by
21 the Resource Conservation and Recovery Act of 1976, (P.L.
22 94-580) approved October 21, 1976, as amended; as noise control
23 agency for the state for all purposes of the Noise Control Act
24 of 1972, Public Law 92-574, approved October 27, 1972, as
25 amended; and as implementing agency for the State for all
26 purposes of the Comprehensive Environmental Response,

1 Compensation, and Liability Act of 1980 (P.L. 96-510), as
2 amended; and otherwise as pollution control agency for the
3 State pursuant to federal laws integrated with the foregoing
4 laws, for financing purposes or otherwise. The Agency is hereby
5 authorized to take all action necessary or appropriate to
6 secure to the State the benefits of such federal Acts, provided
7 that the Agency shall transmit to the United States without
8 change any standards adopted by the Pollution Control Board
9 pursuant to Section 5(c) of this Act. This subsection (l) of
10 Section 4 shall not be construed to bar or prohibit the
11 Environmental Protection Trust Fund Commission from accepting,
12 receiving, and administering on behalf of the State any grants,
13 gifts, loans or other funds for which the Commission is
14 eligible pursuant to the Environmental Protection Trust Fund
15 Act. The Agency is hereby designated as the State agency for
16 all purposes of administering the requirements of Section 313
17 of the federal Emergency Planning and Community Right-to-Know
18 Act of 1986.

19 Any municipality, sanitary district, or other political
20 subdivision, or any Agency of the State or interstate Agency,
21 which makes application for loans or grants under such federal
22 Acts shall notify the Agency of such application; the Agency
23 may participate in proceedings under such federal Acts.

24 (m) The Agency shall have authority, consistent with
25 Section 5(c) and other provisions of this Act, and for purposes
26 of Section 303(e) of the Federal Water Pollution Control Act,

1 as now or hereafter amended, to engage in planning processes
2 and activities and to develop plans in cooperation with units
3 of local government, state agencies and officers, and other
4 appropriate persons in connection with the jurisdiction or
5 duties of each such unit, agency, officer or person. Public
6 hearings shall be held on the planning process, at which any
7 person shall be permitted to appear and be heard, pursuant to
8 procedural regulations promulgated by the Agency.

9 (n) In accordance with the powers conferred upon the Agency
10 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
11 Agency shall have authority to establish and enforce minimum
12 standards for the operation of laboratories relating to
13 analyses and laboratory tests for air pollution, water
14 pollution, noise emissions, contaminant discharges onto land
15 and sanitary, chemical, and mineral quality of water
16 distributed by a public water supply. The Agency may enter into
17 formal working agreements with other departments or agencies of
18 state government under which all or portions of this authority
19 may be delegated to the cooperating department or agency.

20 (o) The Agency shall have the authority to issue
21 certificates of competency to persons and laboratories meeting
22 the minimum standards established by the Agency in accordance
23 with Section 4(n) of this Act and to promulgate and enforce
24 regulations relevant to the issuance and use of such
25 certificates. The Agency may enter into formal working
26 agreements with other departments or agencies of state

1 government under which all or portions of this authority may be
2 delegated to the cooperating department or agency.

3 (p) Except as provided in Section 17.7, the Agency shall
4 have the duty to analyze samples as required from each public
5 water supply to determine compliance with the contaminant
6 levels specified by the Pollution Control Board. The maximum
7 number of samples which the Agency shall be required to analyze
8 for microbiological quality shall be 6 per month, but the
9 Agency may, at its option, analyze a larger number each month
10 for any supply. Results of sample analyses for additional
11 required bacteriological testing, turbidity, residual chlorine
12 and radionuclides are to be provided to the Agency in
13 accordance with Section 19. Owners of water supplies may enter
14 into agreements with the Agency to provide for reduced Agency
15 participation in sample analyses.

16 (q) The Agency shall have the authority to provide notice
17 to any person who may be liable pursuant to Section 22.2(f) of
18 this Act for a release or a substantial threat of a release of
19 a hazardous substance or pesticide. Such notice shall include
20 the identified response action and an opportunity for such
21 person to perform the response action.

22 (r) The Agency may enter into written delegation agreements
23 with any unit of local government under which it may delegate
24 all or portions of its inspecting, investigating and
25 enforcement functions. Such delegation agreements shall
26 require that work performed thereunder be in accordance with

1 Agency criteria and subject to Agency review. Notwithstanding
2 any other provision of law to the contrary, no unit of local
3 government shall be liable for any injury resulting from the
4 exercise of its authority pursuant to such a delegation
5 agreement unless the injury is proximately caused by the
6 willful and wanton negligence of an agent or employee of the
7 unit of local government, and any policy of insurance coverage
8 issued to a unit of local government may provide for the denial
9 of liability and the nonpayment of claims based upon injuries
10 for which the unit of local government is not liable pursuant
11 to this subsection (r).

12 (s) The Agency shall have authority to take whatever
13 preventive or corrective action is necessary or appropriate,
14 including but not limited to expenditure of monies appropriated
15 from the Build Illinois Bond Fund and the Build Illinois
16 Purposes Fund for removal or remedial action, whenever any
17 hazardous substance or pesticide is released or there is a
18 substantial threat of such a release into the environment. The
19 State, the Director, and any State employee shall be
20 indemnified for any damages or injury arising out of or
21 resulting from any action taken under this subsection. The
22 Director of the Agency is authorized to enter into such
23 contracts and agreements as are necessary to carry out the
24 Agency's duties under this subsection.

25 (t) The Agency shall have authority to distribute grants,
26 subject to appropriation by the General Assembly, to units of

1 local government for financing and construction of wastewater
2 facilities in both incorporated and unincorporated areas. With
3 respect to all monies appropriated from the Build Illinois Bond
4 Fund and the Build Illinois Purposes Fund for wastewater
5 facility grants, the Agency shall make distributions in
6 conformity with the rules and regulations established pursuant
7 to the Anti-Pollution Bond Act, as now or hereafter amended.

8 (u) Pursuant to the Illinois Administrative Procedure Act,
9 the Agency shall have the authority to adopt such rules as are
10 necessary or appropriate for the Agency to implement Section
11 31.1 of this Act.

12 (v) (Blank.)

13 (w) Neither the State, nor the Director, nor the Board, nor
14 any State employee shall be liable for any damages or injury
15 arising out of or resulting from any action taken under
16 subsection (s).

17 (x)(1) The Agency shall have authority to distribute
18 grants, subject to appropriation by the General Assembly,
19 to units of local government for financing and construction
20 of public water supply facilities. With respect to all
21 monies appropriated from the Build Illinois Bond Fund or
22 the Build Illinois Purposes Fund for public water supply
23 grants, such grants shall be made in accordance with rules
24 promulgated by the Agency. Such rules shall include a
25 requirement for a local match of 30% of the total project
26 cost for projects funded through such grants.

1 (2) The Agency shall not terminate a grant to a unit of
2 local government for the financing and construction of
3 public water supply facilities unless and until the Agency
4 adopts rules that set forth precise and complete standards,
5 pursuant to Section 5-20 of the Illinois Administrative
6 Procedure Act, for the termination of such grants. The
7 Agency shall not make determinations on whether specific
8 grant conditions are necessary to ensure the integrity of a
9 project or on whether subagreements shall be awarded, with
10 respect to grants for the financing and construction of
11 public water supply facilities, unless and until the Agency
12 adopts rules that set forth precise and complete standards,
13 pursuant to Section 5-20 of the Illinois Administrative
14 Procedure Act, for making such determinations. The Agency
15 shall not issue a stop-work order in relation to such
16 grants unless and until the Agency adopts precise and
17 complete standards, pursuant to Section 5-20 of the
18 Illinois Administrative Procedure Act, for determining
19 whether to issue a stop-work order.

20 (y) The Agency shall have authority to release any person
21 from further responsibility for preventive or corrective
22 action under this Act following successful completion of
23 preventive or corrective action undertaken by such person upon
24 written request by the person.

25 (z) To the extent permitted by any applicable federal law
26 or regulation, for all work performed for State construction

1 projects which are funded in whole or in part by a capital
2 infrastructure bill enacted by the 96th General Assembly by
3 sums appropriated to the Environmental Protection Agency, at
4 least 50% of the total labor hours must be performed by actual
5 residents of the State of Illinois. For purposes of this
6 subsection, "actual residents of the State of Illinois" means
7 persons domiciled in the State of Illinois. The Department of
8 Labor shall promulgate rules providing for the enforcement of
9 this subsection.

10 (aa) The Agency shall, for the purpose of identifying
11 companies that do business in the State, establish a common
12 company identification number to be used agency-wide to refer
13 to such companies.

14 (bb) The Agency shall create a permit streamlining unit.
15 The unit shall serve to expedite the issuance of air and water
16 permits.

17 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;
18 96-800, eff. 10-30-09; revised 11-23-09.)

19 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

20 Sec. 39. Issuance of permits; procedures.

21 (a) When the Board has by regulation required a permit for
22 the construction, installation, or operation of any type of
23 facility, equipment, vehicle, vessel, or aircraft, the
24 applicant shall apply to the Agency for such permit and it
25 shall be the duty of the Agency to issue such a permit upon

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

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

25 (ii) the provision of the regulations, promulgated
26 under this Act, which may be violated if the permit were

1 granted;

2 (iii) the specific type of information, if any, which
3 the Agency deems the applicant did not provide the Agency;
4 and

5 (iv) a statement of specific reasons why the Act and
6 the regulations might not be met if the permit were
7 granted.

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

22 The Agency shall publish notice of all final permit
23 determinations for development permits for MSWLF units and for
24 significant permit modifications for lateral expansions for
25 existing MSWLF units one time in a newspaper of general
26 circulation in the county in which the unit is or is proposed

1 to be located.

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

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

25 If requested by the applicant at the time an application
26 for permit is filed, the Agency shall provide the applicant,

1 before issuing a public notice for any permit, a brief
2 opportunity to review and comment upon a proposed draft permit.
3 The Agency shall consider those comments and may modify the
4 draft permit before issuing any required public notice or
5 permit, as applicable. In the event that the applicant requests
6 a pre-public notice review and comment period, the 90-day and
7 180-day periods for the Agency to take final action will be
8 extended by the length of such review and comment period.

9 The Agency shall, to the extent that doing so is possible
10 and consistent with other relevant federal and State law, issue
11 general permits for categories of similar sources. Such permits
12 shall conform to regulations promulgated for the particular
13 program for which the general permit shall apply.

14 Within one year after after the effective date of this
15 amendatory Act of the 96th General Assembly, the Agency shall
16 make all permit applications on-line, editable, and savable
17 files.

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

23 All NPDES permits shall contain those terms and conditions,
24 including but not limited to schedules of compliance, which may
25 be required to accomplish the purposes and provisions of this
26 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 The Agency shall adopt an expedited process for those NPDES
26 permit renewals where the applicant certifies that no change is

1 included in the renewal.

2 (c) Except for those facilities owned or operated by
3 sanitary districts organized under the Metropolitan Water
4 Reclamation District Act, no permit for the development or
5 construction of a new pollution control facility may be granted
6 by the Agency unless the applicant submits proof to the Agency
7 that the location of the facility has been approved by the
8 County Board of the county if in an unincorporated area, or the
9 governing body of the municipality when in an incorporated
10 area, in which the facility is to be located in accordance with
11 Section 39.2 of this Act. For purposes of this subsection (c),
12 and for purposes of Section 39.2 of this Act, the appropriate
13 county board or governing body of the municipality shall be the
14 county board of the county or the governing body of the
15 municipality in which the facility is to be located as of the
16 date when the application for siting approval is filed.

17 In the event that siting approval granted pursuant to
18 Section 39.2 has been transferred to a subsequent owner or
19 operator, that subsequent owner or operator may apply to the
20 Agency for, and the Agency may grant, a development or
21 construction permit for the facility for which local siting
22 approval was granted. Upon application to the Agency for a
23 development or construction permit by that subsequent owner or
24 operator, the permit applicant shall cause written notice of
25 the permit application to be served upon the appropriate county
26 board or governing body of the municipality that granted siting

1 approval for that facility and upon any party to the siting
2 proceeding pursuant to which siting approval was granted. In
3 that event, the Agency shall conduct an evaluation of the
4 subsequent owner or operator's prior experience in waste
5 management operations in the manner conducted under subsection
6 (i) of Section 39 of this Act.

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

24 In the case of a pollution control facility for which a
25 development permit was issued before November 12, 1981, if an
26 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

1 relieve the applicant from meeting and securing all necessary
2 zoning approvals from the unit of government having zoning
3 jurisdiction over the proposed facility.

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

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

20 (1) the municipal waste transfer station was in
21 existence on or before January 1, 1979 and was in
22 continuous operation from January 1, 1979 to January 1,
23 1993;

24 (2) the operator submitted a permit application to the
25 Agency to develop and operate the municipal waste transfer
26 station during April of 1994;

1 (3) the operator can demonstrate that the county board
2 of the county, if the municipal waste transfer station is
3 in an unincorporated area, or the governing body of the
4 municipality, if the station is in an incorporated area,
5 does not object to resumption of the operation of the
6 station; and

7 (4) the site has local zoning approval.

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

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

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

1 be incinerated as may be necessary and appropriate to ensure
2 the safe operation of the incinerator.

3 The Agency shall adopt filing requirements and procedures
4 which are necessary and appropriate for the issuance of RCRA
5 permits, and which are consistent with the Act or regulations
6 adopted by the Board, and with the Resource Conservation and
7 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
8 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 (e) The Agency may issue UIC permits exclusively under this
19 subsection to persons owning or operating a facility for the
20 underground injection of contaminants as defined under this
21 Act.

22 All UIC permits shall contain those terms and conditions,
23 including but not limited to schedules of compliance, which may
24 be required to accomplish the purposes and provisions of this
25 Act. The Agency may include among such conditions standards and
26 other requirements established under this Act, Board

1 regulations, the Safe Drinking Water Act (P.L. 93-523), as
2 amended, and regulations pursuant thereto, and may include
3 schedules for achieving compliance therewith. The Agency shall
4 require that a performance bond or other security be provided
5 as a condition for the issuance of a UIC permit.

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

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

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

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

1 Maximum Achievable Control Technology, or Best Available
2 Control Technology, consistent with the Board's
3 regulations, if any.

4 (2) The Agency shall, after conferring with the
5 applicant, give written notice to the applicant of its
6 proposed decision on the application including the terms
7 and conditions of the permit to be issued and the facts,
8 conduct or other basis upon which the Agency will rely to
9 support its proposed action.

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

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

25 (h) A hazardous waste stream may not be deposited in a
26 permitted hazardous waste site unless specific authorization

1 is obtained from the Agency by the generator and disposal site
2 owner and operator for the deposit of that specific hazardous
3 waste stream. The Agency may grant specific authorization for
4 disposal of hazardous waste streams only after the generator
5 has reasonably demonstrated that, considering technological
6 feasibility and economic reasonableness, the hazardous waste
7 cannot be reasonably recycled for reuse, nor incinerated or
8 chemically, physically or biologically treated so as to
9 neutralize the hazardous waste and render it nonhazardous. In
10 granting authorization under this Section, the Agency may
11 impose such conditions as may be necessary to accomplish the
12 purposes of the Act and are consistent with this Act and
13 regulations promulgated by the Board hereunder. If the Agency
14 refuses to grant authorization under this Section, the
15 applicant may appeal as if the Agency refused to grant a
16 permit, pursuant to the provisions of subsection (a) of Section
17 40 of this Act. For purposes of this subsection (h), the term
18 "generator" has the meaning given in Section 3.205 of this Act,
19 unless: (1) the hazardous waste is treated, incinerated, or
20 partially recycled for reuse prior to disposal, in which case
21 the last person who treats, incinerates, or partially recycles
22 the hazardous waste prior to disposal is the generator; or (2)
23 the hazardous waste is from a response action, in which case
24 the person performing the response action is the generator.
25 This subsection (h) does not apply to any hazardous waste that
26 is restricted from land disposal under 35 Ill. Adm. Code 728.

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

18 (2) conviction in this or another State of any crime
19 which is a felony under the laws of this State, or
20 conviction of a felony in a federal court; or conviction in
21 this or another state or federal court of any of the
22 following crimes: forgery, official misconduct, bribery,
23 perjury, or knowingly submitting false information under
24 any environmental law, regulation, or permit term or
25 condition; or

26 (3) proof of gross carelessness or incompetence in

1 handling, storing, processing, transporting or disposing
2 of waste or clean construction or demolition debris, or
3 proof of gross carelessness or incompetence in using clean
4 construction or demolition debris as fill.

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

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

25 (k) A development permit issued under subsection (a) of
26 Section 39 for any facility or site which is required to have a

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

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

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

1 was denied. Such statements shall include but not be limited to
2 the following:

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

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

7 (3) the specific information, if any, the Agency deems
8 the applicant did not provide in its application to the
9 Agency; and

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

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

17 The Agency shall issue permits for such facilities upon
18 receipt of an application that includes a legal description of
19 the site, a topographic map of the site drawn to the scale of
20 200 feet to the inch or larger, a description of the operation,
21 including the area served, an estimate of the volume of
22 materials to be processed, and documentation that:

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

25 (2) the facility is located outside the boundary of the
26 10-year floodplain or the site will be floodproofed;

1 (3) the facility is located so as to minimize
2 incompatibility with the character of the surrounding
3 area, including at least a 200 foot setback from any
4 residence, and in the case of a facility that is developed
5 or the permitted composting area of which is expanded after
6 November 17, 1991, the composting area is located at least
7 1/8 mile from the nearest residence (other than a residence
8 located on the same property as the facility);

9 (4) the design of the facility will prevent any compost
10 material from being placed within 5 feet of the water
11 table, will adequately control runoff from the site, and
12 will collect and manage any leachate that is generated on
13 the site;

14 (5) the operation of the facility will include
15 appropriate dust and odor control measures, limitations on
16 operating hours, appropriate noise control measures for
17 shredding, chipping and similar equipment, management
18 procedures for composting, containment and disposal of
19 non-compostable wastes, procedures to be used for
20 terminating operations at the site, and recordkeeping
21 sufficient to document the amount of materials received,
22 composted and otherwise disposed of; and

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

25 The Agency shall issue renewable permits of not longer than
26 10 years in duration for the composting of landscape wastes, as

1 defined in Section 3.155 of this Act, based on the above
2 requirements.

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

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

12 (o) (Blank.)

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

1 of reproduction.

2 (Source: P.A. 94-272, eff. 7-19-05; 94-725, eff. 6-1-06;
3 95-288, eff. 8-20-07.)

4 (415 ILCS 5/39.6 new)

5 Sec. 39.6. Air permits by rule.

6 (a) The Board may, by rule, adopt air permits for classes
7 of facilities or equipment that it finds will not make a
8 significant contribution of air contaminants to the
9 atmosphere. The Board may not, by rule, adopt an air permit
10 authorizing a source defined as "major" under any applicable
11 preconstruction permitting requirements of the federal Clean
12 Air Act or regulations adopted under that Act.

13 (b) The Board shall, by rule, specifically define the terms
14 and conditions for granting a permit under this Section.

15 (c) The Agency shall issue permits to the owners or
16 operators of facilities or equipment that satisfy the
17 requirements established by Board rule under this Section.

18 (d) The Board shall expedite the rulemakings for permits
19 issued under this Section.