



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6153

by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.330
415 ILCS 5/39

was 415 ILCS 5/3.32
from Ch. 111 1/2, par. 1039

Amends the Environmental Protection Act. Specifies that any site or facility for the treatment, storage, or disposal of a hazardous waste is a pollution control facility. Provides that, if a new pollution control facility is to be located above an aquifer, then local siting approval must be obtained by the county board of each county located, in whole or part, within the aquifer's boundaries and the governing body of each municipality located, in whole or part, within the aquifer's boundaries

LRB097 18917 JDS 64155 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 3.330 and 39 as follows:

6 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

7 Sec. 3.330. Pollution control facility.

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

14 The following are not pollution control facilities:

15 (1) (blank);

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

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

1 owned, controlled or operated by such person, or when such
2 wastes are transported within or between sites or
3 facilities owned, controlled or operated by such person;

4 (4) sites or facilities at which the State is
5 performing removal or remedial action pursuant to Section
6 22.2 or 55.3;

7 (5) abandoned quarries used solely for the disposal of
8 concrete, earth materials, gravel, or aggregate debris
9 resulting from road construction activities conducted by a
10 unit of government or construction activities due to the
11 construction and installation of underground pipes, lines,
12 conduit or wires off of the premises of a public utility
13 company which are conducted by a public utility;

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

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

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

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

24 (10) the portion of a site or facility used for
25 treatment of petroleum contaminated materials by
26 application onto or incorporation into the soil surface and

1 any portion of that site or facility used for storage of
2 petroleum contaminated materials before treatment. Only
3 those categories of petroleum listed in Section 57.9(a)(3)
4 are exempt under this subdivision (10);

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

11 (11.5) processing sites or facilities that receive
12 only on-specification used oil, as defined in 35 Ill.
13 Admin. Code 739, originating from used oil collectors for
14 processing that is managed under 35 Ill. Admin. Code 739 to
15 produce products for sale to off-site petroleum
16 facilities, if these processing sites or facilities are:
17 (i) located within a home rule unit of local government
18 with a population of at least 30,000 according to the 2000
19 federal census, that home rule unit of local government has
20 been designated as an Urban Round II Empowerment Zone by
21 the United States Department of Housing and Urban
22 Development, and that home rule unit of local government
23 has enacted an ordinance approving the location of the site
24 or facility and provided funding for the site or facility;
25 and (ii) in compliance with all applicable zoning
26 requirements;

1 (12) the portion of a site or facility utilizing coal
2 combustion waste for stabilization and treatment of only
3 waste generated on that site or facility when used in
4 connection with response actions pursuant to the federal
5 Comprehensive Environmental Response, Compensation, and
6 Liability Act of 1980, the federal Resource Conservation
7 and Recovery Act of 1976, or the Illinois Environmental
8 Protection Act or as authorized by the Agency;

9 (13) the portion of a site or facility that (i) accepts
10 exclusively general construction or demolition debris,
11 (ii) is located in a county with a population over
12 3,000,000 as of January 1, 2000 or in a county that is
13 contiguous to such a county, and (iii) is operated and
14 located in accordance with Section 22.38 of this Act;

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

24 (15) the portion of a site or facility located in a
25 county with a population over 3,000,000 that has obtained
26 local siting approval under Section 39.2 of this Act for a

1 municipal waste incinerator on or before July 1, 2005 and
2 that is used for a non-hazardous waste transfer station;

3 (16) a site or facility that temporarily holds in
4 transit for 10 days or less, non-putrescible solid waste in
5 original containers, no larger in capacity than 500
6 gallons, provided that such waste is further transferred to
7 a recycling, disposal, treatment, or storage facility on a
8 non-contiguous site and provided such site or facility
9 complies with the applicable 10-day transfer requirements
10 of the federal Resource Conservation and Recovery Act of
11 1976 and United States Department of Transportation
12 hazardous material requirements. For purposes of this
13 Section only, "non-putrescible solid waste" means waste
14 other than municipal garbage that does not rot or become
15 putrid, including, but not limited to, paints, solvent,
16 filters, and absorbents;

17 (17) the portion of a site or facility located in a
18 county with a population greater than 3,000,000 that has
19 obtained local siting approval, under Section 39.2 of this
20 Act, for a municipal waste incinerator on or before July 1,
21 2005 and that is used for wood combustion facilities for
22 energy recovery that accept and burn only wood material, as
23 included in a fuel specification approved by the Agency;

24 (18) a transfer station used exclusively for landscape
25 waste, including a transfer station where landscape waste
26 is ground to reduce its volume, where the landscape waste

1 is held no longer than 24 hours from the time it was
2 received;

3 (19) the portion of a site or facility that (i) is used
4 for the composting of food scrap, livestock waste, crop
5 residue, uncontaminated wood waste, or paper waste,
6 including, but not limited to, corrugated paper or
7 cardboard, and (ii) meets all of the following
8 requirements:

9 (A) There must not be more than a total of 30,000
10 cubic yards of livestock waste in raw form or in the
11 process of being composted at the site or facility at
12 any one time.

13 (B) All food scrap, livestock waste, crop residue,
14 uncontaminated wood waste, and paper waste must, by the
15 end of each operating day, be processed and placed into
16 an enclosed vessel in which air flow and temperature
17 are controlled, or all of the following additional
18 requirements must be met:

19 (i) The portion of the site or facility used
20 for the composting operation must include a
21 setback of at least 200 feet from the nearest
22 potable water supply well.

23 (ii) The portion of the site or facility used
24 for the composting operation must be located
25 outside the boundary of the 10-year floodplain or
26 floodproofed.

1 (iii) The portion of the site or facility used
2 for the composting operation must be located at
3 least one-eighth of a mile from the nearest
4 residence, other than a residence located on the
5 same property as the site or facility.

6 (iv) The portion of the site or facility used
7 for the composting operation must be located at
8 least one-eighth of a mile from the property line
9 of all of the following areas:

10 (I) Facilities that primarily serve to
11 house or treat people that are
12 immunocompromised or immunosuppressed, such as
13 cancer or AIDS patients; people with asthma,
14 cystic fibrosis, or bioaerosol allergies; or
15 children under the age of one year.

16 (II) Primary and secondary schools and
17 adjacent areas that the schools use for
18 recreation.

19 (III) Any facility for child care licensed
20 under Section 3 of the Child Care Act of 1969;
21 preschools; and adjacent areas that the
22 facilities or preschools use for recreation.

23 (v) By the end of each operating day, all food
24 scrap, livestock waste, crop residue,
25 uncontaminated wood waste, and paper waste must be
26 (i) processed into windrows or other piles and (ii)

1 covered in a manner that prevents scavenging by
2 birds and animals and that prevents other
3 nuisances.

4 (C) Food scrap, livestock waste, crop residue,
5 uncontaminated wood waste, paper waste, and compost
6 must not be placed within 5 feet of the water table.

7 (D) The site or facility must meet all of the
8 requirements of the Wild and Scenic Rivers Act (16
9 U.S.C. 1271 et seq.).

10 (E) The site or facility must not (i) restrict the
11 flow of a 100-year flood, (ii) result in washout of
12 food scrap, livestock waste, crop residue,
13 uncontaminated wood waste, or paper waste from a
14 100-year flood, or (iii) reduce the temporary water
15 storage capacity of the 100-year floodplain, unless
16 measures are undertaken to provide alternative storage
17 capacity, such as by providing lagoons, holding tanks,
18 or drainage around structures at the facility.

19 (F) The site or facility must not be located in any
20 area where it may pose a threat of harm or destruction
21 to the features for which:

22 (i) an irreplaceable historic or
23 archaeological site has been listed under the
24 National Historic Preservation Act (16 U.S.C. 470
25 et seq.) or the Illinois Historic Preservation
26 Act;

1 (ii) a natural landmark has been designated by
2 the National Park Service or the Illinois State
3 Historic Preservation Office; or

4 (iii) a natural area has been designated as a
5 Dedicated Illinois Nature Preserve under the
6 Illinois Natural Areas Preservation Act.

7 (G) The site or facility must not be located in an
8 area where it may jeopardize the continued existence of
9 any designated endangered species, result in the
10 destruction or adverse modification of the critical
11 habitat for such species, or cause or contribute to the
12 taking of any endangered or threatened species of
13 plant, fish, or wildlife listed under the Endangered
14 Species Act (16 U.S.C. 1531 et seq.) or the Illinois
15 Endangered Species Protection Act;

16 (20) the portion of a site or facility that is located
17 entirely within a home rule unit having a population of no
18 less than 120,000 and no more than 135,000, according to
19 the 2000 federal census, and that meets all of the
20 following requirements:

21 (i) the portion of the site or facility is used
22 exclusively to perform testing of a thermochemical
23 conversion technology using only woody biomass,
24 collected as landscape waste within the boundaries
25 of the home rule unit, as the hydrocarbon feedstock
26 for the production of synthetic gas in accordance

1 with Section 39.9 of this Act;

2 (ii) the portion of the site or facility is in
3 compliance with all applicable zoning
4 requirements; and

5 (iii) a complete application for a
6 demonstration permit at the portion of the site or
7 facility has been submitted to the Agency in
8 accordance with Section 39.9 of this Act within one
9 year after July 27, 2010 (the effective date of
10 Public Act 96-1314);

11 (21) the portion of a site or facility used to perform
12 limited testing of a gasification conversion technology in
13 accordance with Section 39.8 of this Act and for which a
14 complete permit application has been submitted to the
15 Agency prior to one year from April 9, 2010 (the effective
16 date of Public Act 96-887); and

17 (22) the portion of a site or facility that is used to
18 incinerate only pharmaceuticals from residential sources
19 that are collected and transported by law enforcement
20 agencies under Section 17.9A of this Act.

21 (a-5) Notwithstanding any provision of subsection (a) of
22 this Section to the contrary, any site or facility for the
23 treatment, storage, or disposal of a hazardous waste is a
24 pollution control facility.

25 (b) A new pollution control facility is:

26 (1) a pollution control facility initially permitted

1 for development or construction after July 1, 1981; or

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

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

7 (Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09;
8 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff.
9 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545,
10 eff. 1-1-12.)

11 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

12 Sec. 39. Issuance of permits; procedures.

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

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

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

17 (ii) the provision of the regulations, promulgated
18 under this Act, which may be violated if the permit were
19 granted;

20 (iii) the specific type of information, if any, which
21 the Agency deems the applicant did not provide the Agency;
22 and

23 (iv) a statement of specific reasons why the Act and
24 the regulations might not be met if the permit were
25 granted.

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

1 after the filing of the application for permit, the applicant
2 may deem the permit issued; except that this time period shall
3 be extended to 180 days when (1) notice and opportunity for
4 public hearing are required by State or federal law or
5 regulation, (2) the application which was filed is for any
6 permit to develop a landfill subject to issuance pursuant to
7 this subsection, or (3) the application that was filed is for a
8 MSWLF unit required to issue public notice under subsection (p)
9 of Section 39. The 90-day and 180-day time periods for the
10 Agency to take final action do not apply to NPDES permit
11 applications under subsection (b) of this Section, to RCRA
12 permit applications under subsection (d) of this Section, or to
13 UIC permit applications under subsection (e) of this Section.

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

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

1 Such operating permits shall expire 180 days after the date of
2 such a request. The Board shall revise its regulations for the
3 existing State air pollution operating permit program
4 consistent with this provision by January 1, 1994.

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

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

22 All NPDES 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.

26 The Agency may issue general NPDES permits for discharges

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

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

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

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

24 (c) Except for those facilities owned or operated by
25 sanitary districts organized under the Metropolitan Water
26 Reclamation District Act, no permit for the development or

1 construction of a new pollution control facility may be granted
2 by the Agency unless the applicant submits proof to the Agency
3 that the location of the facility has been approved by the
4 County Board of the county if in an unincorporated area, or the
5 governing body of the municipality when in an incorporated
6 area, in which the facility is to be located in accordance with
7 Section 39.2 of this Act. For purposes of this subsection (c),
8 and for purposes of Section 39.2 of this Act, the appropriate
9 county board or governing body of the municipality shall be:
10 (i) in the case of a new pollution control facility that is not
11 proposed to be constructed above an aquifer, the county board
12 of the county or the governing body of the municipality in
13 which the facility is to be located as of the date when the
14 application for siting approval is filed and (ii) in the case
15 of a new pollution control facility that is proposed to be
16 constructed above an aquifer, the county board of each county
17 located, in or whole in part, within the aquifer's boundaries
18 and the governing body of each municipality located, in or
19 whole or part, within the aquifer's boundaries.

20 In the event that siting approval granted pursuant to
21 Section 39.2 has been transferred to a subsequent owner or
22 operator, that subsequent owner or operator may apply to the
23 Agency for, and the Agency may grant, a development or
24 construction permit for the facility for which local siting
25 approval was granted. Upon application to the Agency for a
26 development or construction permit by that subsequent owner or

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

10 Beginning August 20, 1993 and before the effective date of
11 this amendatory Act of the 97th General Assembly, if the
12 pollution control facility consists of a hazardous or solid
13 waste disposal facility for which the proposed site is located
14 in an unincorporated area of a county with a population of less
15 than 100,000 and includes all or a portion of a parcel of land
16 that was, on April 1, 1993, adjacent to a municipality having a
17 population of less than 5,000, then the local siting review
18 required under this subsection (c) in conjunction with any
19 permit applied for after that date shall be performed by the
20 governing body of that adjacent municipality rather than the
21 county board of the county in which the proposed site is
22 located; and for the purposes of that local siting review, any
23 references in this Act to the county board shall be deemed to
24 mean the governing body of that adjacent municipality;
25 provided, however, that the provisions of this paragraph shall
26 not apply on or after the effective date of this amendatory Act

1 of the 97th General Assembly or to any proposed site which was,
2 on April 1, 1993, owned in whole or in part by another
3 municipality.

4 In the case of a pollution control facility for which a
5 development permit was issued before November 12, 1981, if an
6 operating permit has not been issued by the Agency prior to
7 August 31, 1989 for any portion of the facility, then the
8 Agency may not issue or renew any development permit nor issue
9 an original operating permit for any portion of such facility
10 unless the applicant has submitted proof to the Agency that the
11 location of the facility has been approved by the appropriate
12 county board or municipal governing body pursuant to Section
13 39.2 of this Act.

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

1 Act after the facility ceased accepting waste.

2 Except for those facilities owned or operated by sanitary
3 districts organized under the Metropolitan Water Reclamation
4 District Act, and except for new pollution control facilities
5 governed by Section 39.2, and except for fossil fuel mining
6 facilities, the granting of a permit under this Act shall not
7 relieve the applicant from meeting and securing all necessary
8 zoning approvals from the unit of government having zoning
9 jurisdiction over the proposed facility.

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

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

26 (1) the municipal waste transfer station was in

1 existence on or before January 1, 1979 and was in
2 continuous operation from January 1, 1979 to January 1,
3 1993;

4 (2) the operator submitted a permit application to the
5 Agency to develop and operate the municipal waste transfer
6 station during April of 1994;

7 (3) the operator can demonstrate that the county board
8 of the county, if the municipal waste transfer station is
9 in an unincorporated area, or the governing body of the
10 municipality, if the station is in an incorporated area,
11 does not object to resumption of the operation of the
12 station; and

13 (4) the site has local zoning approval.

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

18 All RCRA permits shall contain those terms and conditions,
19 including but not limited to schedules of compliance, which may
20 be required to accomplish the purposes and provisions of this
21 Act. The Agency may include among such conditions standards and
22 other requirements established under this Act, Board
23 regulations, the Resource Conservation and Recovery Act of 1976
24 (P.L. 94-580), as amended, and regulations pursuant thereto,
25 and may include schedules for achieving compliance therewith as
26 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

1 Act.

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

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

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

26 (f) In making any determination pursuant to Section 9.1 of

1 this Act:

2 (1) The Agency shall have authority to make the
3 determination of any question required to be determined by
4 the Clean Air Act, as now or hereafter amended, this Act,
5 or the regulations of the Board, including the
6 determination of the Lowest Achievable Emission Rate,
7 Maximum Achievable Control Technology, or Best Available
8 Control Technology, consistent with the Board's
9 regulations, if any.

10 (2) The Agency shall, after conferring with the
11 applicant, give written notice to the applicant of its
12 proposed decision on the application including the terms
13 and conditions of the permit to be issued and the facts,
14 conduct or other basis upon which the Agency will rely to
15 support its proposed action.

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

20 (g) The Agency shall include as conditions upon all permits
21 issued for hazardous waste disposal sites such restrictions
22 upon the future use of such sites as are reasonably necessary
23 to protect public health and the environment, including
24 permanent prohibition of the use of such sites for purposes
25 which may create an unreasonable risk of injury to human health
26 or to the environment. After administrative and judicial

1 challenges to such restrictions have been exhausted, the Agency
2 shall file such restrictions of record in the Office of the
3 Recorder of the county in which the hazardous waste disposal
4 site is located.

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

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

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

19 (1) repeated violations of federal, State, or local
20 laws, regulations, standards, or ordinances in the
21 operation of waste management facilities or sites or clean
22 construction or demolition debris fill operation
23 facilities or sites; or

24 (2) conviction in this or another State of any crime
25 which is a felony under the laws of this State, or
26 conviction of a felony in a federal court; or conviction in

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

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

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

26 (j) The issuance under this Act of a permit to engage in

1 the surface mining of any resources other than fossil fuels
2 shall not relieve the permittee from its duty to comply with
3 any applicable local law regulating the commencement, location
4 or operation of surface mining facilities.

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

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

22 (m) The Agency may issue permits to persons owning or
23 operating a facility for composting landscape waste. In
24 granting such permits, the Agency may impose such conditions as
25 may be necessary to accomplish the purposes of this Act, and as
26 are not inconsistent with applicable regulations promulgated

1 by the Board. Except as otherwise provided in this Act, a bond
2 or other security shall not be required as a condition for the
3 issuance of a permit. If the Agency denies any permit pursuant
4 to this subsection, the Agency shall transmit to the applicant
5 within the time limitations of this subsection specific,
6 detailed statements as to the reasons the permit application
7 was denied. Such statements shall include but not be limited to
8 the following:

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

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

13 (3) the specific information, if any, the Agency deems
14 the applicant did not provide in its application to the
15 Agency; and

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

18 If no final action is taken by the Agency within 90 days
19 after the filing of the application for permit, the applicant
20 may deem the permit issued. Any applicant for a permit may
21 waive the 90 day limitation by filing a written statement with
22 the Agency.

23 The Agency shall issue permits for such facilities upon
24 receipt of an application that includes a legal description of
25 the site, a topographic map of the site drawn to the scale of
26 200 feet to the inch or larger, a description of the operation,

1 including the area served, an estimate of the volume of
2 materials to be processed, and documentation that:

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

5 (2) the facility is located outside the boundary of the
6 10-year floodplain or the site will be floodproofed;

7 (3) the facility is located so as to minimize
8 incompatibility with the character of the surrounding
9 area, including at least a 200 foot setback from any
10 residence, and in the case of a facility that is developed
11 or the permitted composting area of which is expanded after
12 November 17, 1991, the composting area is located at least
13 1/8 mile from the nearest residence (other than a residence
14 located on the same property as the facility);

15 (4) the design of the facility will prevent any compost
16 material from being placed within 5 feet of the water
17 table, will adequately control runoff from the site, and
18 will collect and manage any leachate that is generated on
19 the site;

20 (5) the operation of the facility will include
21 appropriate dust and odor control measures, limitations on
22 operating hours, appropriate noise control measures for
23 shredding, chipping and similar equipment, management
24 procedures for composting, containment and disposal of
25 non-compostable wastes, procedures to be used for
26 terminating operations at the site, and recordkeeping

1 sufficient to document the amount of materials received,
2 composted and otherwise disposed of; and

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

5 The Agency shall issue renewable permits of not longer than
6 10 years in duration for the composting of landscape wastes, as
7 defined in Section 3.155 of this Act, based on the above
8 requirements.

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

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

18 (o) (Blank.)

19 (p) (1) Any person submitting an application for a permit
20 for a new MSWLF unit or for a lateral expansion under
21 subsection (t) of Section 21 of this Act for an existing MSWLF
22 unit that has not received and is not subject to local siting
23 approval under Section 39.2 of this Act shall publish notice of
24 the application in a newspaper of general circulation in the
25 county in which the MSWLF unit is or is proposed to be located.
26 The notice must be published at least 15 days before submission

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

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

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

19 (3) Each applicant for a permit described in part (1) of
20 this subsection shall file a copy of the permit application
21 with the county board or governing body of the municipality in
22 which the MSWLF unit is or is proposed to be located at the
23 same time the application is submitted to the Agency. The
24 permit application filed with the county board or governing
25 body of the municipality shall include all documents submitted
26 to or to be submitted to the Agency, except trade secrets as

1 determined under Section 7.1 of this Act. The permit
2 application and other documents on file with the county board
3 or governing body of the municipality shall be made available
4 for public inspection during regular business hours at the
5 office of the county board or the governing body of the
6 municipality and may be copied upon payment of the actual cost
7 of reproduction.

8 (q) Within 6 months after the effective date of this
9 amendatory Act of the 97th General Assembly, the Agency, in
10 consultation with the regulated community, shall develop a web
11 portal to be posted on its website for the purpose of enhancing
12 review and promoting timely issuance of permits required by
13 this Act. At a minimum, the Agency shall make the following
14 information available on the web portal:

15 (1) Checklists and guidance relating to the completion
16 of permit applications, developed pursuant to subsection
17 (s) of this Section, which may include, but are not limited
18 to, existing instructions for completing the applications
19 and examples of complete applications. As the Agency
20 develops new checklists and develops guidance, it shall
21 supplement the web portal with those materials.

22 (2) Within 2 years after the effective date of this
23 amendatory Act of the 97th General Assembly, permit
24 application forms or portions of permit applications that
25 can be completed and saved electronically, and submitted to
26 the Agency electronically with digital signatures.

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

17 (A) the number of applications received for each
18 type of permit, the number of applications on which the
19 Agency has taken action, and the number of applications
20 still pending; and

21 (B) for those applications where the Agency has not
22 taken action in accordance with the timeframes set
23 forth in this Act, the date the application was
24 received and the reasons for any delays, which may
25 include, but shall not be limited to, (i) the
26 application being inadequate or incomplete, (ii)

1 scientific or technical disagreements with the
2 applicant, USEPA, or other local, state, or federal
3 agencies involved in the permitting approval process,
4 (iii) public opposition to the permit, or (iv) Agency
5 staffing shortages. To the extent practicable, the
6 tracking report shall provide approximate dates when
7 cause for delay was identified by the Agency, when the
8 Agency informed the applicant of the problem leading to
9 the delay, and when the applicant remedied the reason
10 for the delay.

11 (r) Upon the request of the applicant, the Agency shall
12 notify the applicant of the permit analyst assigned to the
13 application upon its receipt.

14 (s) The Agency is authorized to prepare and distribute
15 guidance documents relating to its administration of this
16 Section and procedural rules implementing this Section.
17 Guidance documents prepared under this subsection shall not be
18 considered rules and shall not be subject to the Illinois
19 Administrative Procedure Act. Such guidance shall not be
20 binding on any party.

21 (t) Except as otherwise prohibited by federal law or
22 regulation, any person submitting an application for a permit
23 may include with the application suggested permit language for
24 Agency consideration. The Agency is not obligated to use the
25 suggested language or any portion thereof in its permitting
26 decision. If requested by the permit applicant, the Agency

1 shall meet with the applicant to discuss the suggested
2 language.

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

6 (v) If requested by the permit applicant, the Agency shall
7 provide the permit applicant with a copy of the final permit
8 prior to its issuance.

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

12 (Source: P.A. 97-95, eff. 7-12-11.)