



Rep. Naomi D. Jakobsson

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1 AMENDMENT TO HOUSE BILL 6153

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6153 by replacing  
3 everything after the enacting clause with the following:

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) (blank) ~~waste storage sites regulated under 40 CFR,~~

1 ~~Part 761.42;~~

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

11 (4) sites or facilities at which the State is  
12 performing removal or remedial action pursuant to Section  
13 22.2 or 55.3;

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

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

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

25 (8) the portion of a site or facility where coal  
26 combustion wastes are stored or disposed of in accordance

1 with subdivision (r) (2) or (r) (3) of Section 21;

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

5 (10) the portion of a site or facility used for  
6 treatment of petroleum contaminated materials by  
7 application onto or incorporation into the soil surface and  
8 any portion of that site or facility used for storage of  
9 petroleum contaminated materials before treatment. Only  
10 those categories of petroleum listed in Section 57.9(a) (3)  
11 are exempt under this subdivision (10);

12 (11) the portion of a site or facility where used oil  
13 is collected or stored prior to shipment to a recycling or  
14 energy recovery facility, provided that the used oil is  
15 generated by households or commercial establishments, and  
16 the site or facility is a recycling center or a business  
17 where oil or gasoline is sold at retail;

18 (11.5) processing sites or facilities that receive  
19 only on-specification used oil, as defined in 35 Ill.  
20 Admin. Code 739, originating from used oil collectors for  
21 processing that is managed under 35 Ill. Admin. Code 739 to  
22 produce products for sale to off-site petroleum  
23 facilities, if these processing sites or facilities are:  
24 (i) located within a home rule unit of local government  
25 with a population of at least 30,000 according to the 2000  
26 federal census, that home rule unit of local government has

1           been designated as an Urban Round II Empowerment Zone by  
2           the United States Department of Housing and Urban  
3           Development, and that home rule unit of local government  
4           has enacted an ordinance approving the location of the site  
5           or facility and provided funding for the site or facility;  
6           and (ii) in compliance with all applicable zoning  
7           requirements;

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

16          (13) the portion of a site or facility that (i) accepts  
17          exclusively general construction or demolition debris,  
18          (ii) is located in a county with a population over  
19          3,000,000 as of January 1, 2000 or in a county that is  
20          contiguous to such a county, and (iii) is operated and  
21          located in accordance with Section 22.38 of this Act;

22          (14) the portion of a site or facility, located within  
23          a unit of local government that has enacted local zoning  
24          requirements, used to accept, separate, and process  
25          uncontaminated broken concrete, with or without protruding  
26          metal bars, provided that the uncontaminated broken

1 concrete and metal bars are not speculatively accumulated,  
2 are at the site or facility no longer than one year after  
3 their acceptance, and are returned to the economic  
4 mainstream in the form of raw materials or products;

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

10 (16) a site or facility that temporarily holds in  
11 transit for 10 days or less, non-putrescible solid waste in  
12 original containers, no larger in capacity than 500  
13 gallons, provided that such waste is further transferred to  
14 a recycling, disposal, treatment, or storage facility on a  
15 non-contiguous site and provided such site or facility  
16 complies with the applicable 10-day transfer requirements  
17 of the federal Resource Conservation and Recovery Act of  
18 1976 and United States Department of Transportation  
19 hazardous material requirements. For purposes of this  
20 Section only, "non-putrescible solid waste" means waste  
21 other than municipal garbage that does not rot or become  
22 putrid, including, but not limited to, paints, solvent,  
23 filters, and absorbents;

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

1 Act, for a municipal waste incinerator on or before July 1,  
2 2005 and that is used for wood combustion facilities for  
3 energy recovery that accept and burn only wood material, as  
4 included in a fuel specification approved by the Agency;

5 (18) a transfer station used exclusively for landscape  
6 waste, including a transfer station where landscape waste  
7 is ground to reduce its volume, where the landscape waste  
8 is held no longer than 24 hours from the time it was  
9 received;

10 (19) the portion of a site or facility that (i) is used  
11 for the composting of food scrap, livestock waste, crop  
12 residue, uncontaminated wood waste, or paper waste,  
13 including, but not limited to, corrugated paper or  
14 cardboard, and (ii) meets all of the following  
15 requirements:

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

20 (B) All food scrap, livestock waste, crop residue,  
21 uncontaminated wood waste, and paper waste must, by the  
22 end of each operating day, be processed and placed into  
23 an enclosed vessel in which air flow and temperature  
24 are controlled, or all of the following additional  
25 requirements must be met:

26 (i) The portion of the site or facility used

1 for the composting operation must include a  
2 setback of at least 200 feet from the nearest  
3 potable water supply well.

4 (ii) The portion of the site or facility used  
5 for the composting operation must be located  
6 outside the boundary of the 10-year floodplain or  
7 floodproofed.

8 (iii) The portion of the site or facility used  
9 for the composting operation must be located at  
10 least one-eighth of a mile from the nearest  
11 residence, other than a residence located on the  
12 same property as the site or facility.

13 (iv) The portion of the site or facility used  
14 for the composting operation must be located at  
15 least one-eighth of a mile from the property line  
16 of all of the following areas:

17 (I) Facilities that primarily serve to  
18 house or treat people that are  
19 immunocompromised or immunosuppressed, such as  
20 cancer or AIDS patients; people with asthma,  
21 cystic fibrosis, or bioaerosol allergies; or  
22 children under the age of one year.

23 (II) Primary and secondary schools and  
24 adjacent areas that the schools use for  
25 recreation.

26 (III) Any facility for child care licensed

1                   under Section 3 of the Child Care Act of 1969;  
2                   preschools; and adjacent areas that the  
3                   facilities or preschools use for recreation.

4                   (v) By the end of each operating day, all food  
5                   scrap, livestock waste, crop residue,  
6                   uncontaminated wood waste, and paper waste must be  
7                   (i) processed into windrows or other piles and (ii)  
8                   covered in a manner that prevents scavenging by  
9                   birds and animals and that prevents other  
10                  nuisances.

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

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

17                  (E) The site or facility must not (i) restrict the  
18                  flow of a 100-year flood, (ii) result in washout of  
19                  food scrap, livestock waste, crop residue,  
20                  uncontaminated wood waste, or paper waste from a  
21                  100-year flood, or (iii) reduce the temporary water  
22                  storage capacity of the 100-year floodplain, unless  
23                  measures are undertaken to provide alternative storage  
24                  capacity, such as by providing lagoons, holding tanks,  
25                  or drainage around structures at the facility.

26                  (F) The site or facility must not be located in any



1 area where it may pose a threat of harm or destruction  
2 to the features for which:

3 (i) an irreplaceable historic or  
4 archaeological site has been listed under the  
5 National Historic Preservation Act (16 U.S.C. 470  
6 et seq.) or the Illinois Historic Preservation  
7 Act;

8 (ii) a natural landmark has been designated by  
9 the National Park Service or the Illinois State  
10 Historic Preservation Office; or

11 (iii) a natural area has been designated as a  
12 Dedicated Illinois Nature Preserve under the  
13 Illinois Natural Areas Preservation Act.

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

23 (20) the portion of a site or facility that is located  
24 entirely within a home rule unit having a population of no  
25 less than 120,000 and no more than 135,000, according to  
26 the 2000 federal census, and that meets all of the

1 following requirements:

2 (i) the portion of the site or facility is used  
3 exclusively to perform testing of a thermochemical  
4 conversion technology using only woody biomass,  
5 collected as landscape waste within the boundaries  
6 of the home rule unit, as the hydrocarbon feedstock  
7 for the production of synthetic gas in accordance  
8 with Section 39.9 of this Act;

9 (ii) the portion of the site or facility is in  
10 compliance with all applicable zoning  
11 requirements; and

12 (iii) a complete application for a  
13 demonstration permit at the portion of the site or  
14 facility has been submitted to the Agency in  
15 accordance with Section 39.9 of this Act within one  
16 year after July 27, 2010 (the effective date of  
17 Public Act 96-1314);

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

24 (22) the portion of a site or facility that is used to  
25 incinerate only pharmaceuticals from residential sources  
26 that are collected and transported by law enforcement

1 agencies under Section 17.9A of this Act.

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

6 (b) A new pollution control facility is:

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

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

11 (3) a permitted pollution control facility requesting  
12 approval to store, dispose of, transfer or incinerate, for  
13 the first time, any special or hazardous waste; ~~or~~

14 (4) a permitted pollution control facility granted,  
15 for the first time, formal approval by the United States  
16 Environmental Protection Agency to store, dispose of,  
17 transfer, or incinerate any polychlorinated biphenyls  
18 (PCB's) regulated pursuant to 40 CFR Part 761.

19 (Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09;  
20 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff.  
21 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545,  
22 eff. 1-1-12.)

23 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

24 Sec. 39. Issuance of permits; procedures.

25 (a) When the Board has by regulation required a permit for

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

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

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

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

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

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

26           The Agency shall publish notice of all final permit

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

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

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

1 rules that require a source to demonstrate that it qualifies  
2 for a permit under this paragraph.

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

8 All NPDES permits shall contain those terms and conditions,  
9 including but not limited to schedules of compliance, which may  
10 be required to accomplish the purposes and provisions of this  
11 Act.

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

18 The Agency may include, among such conditions, effluent  
19 limitations and other requirements established under this Act,  
20 Board regulations, the Federal Water Pollution Control Act, as  
21 now or hereafter amended, and regulations pursuant thereto, and  
22 schedules for achieving compliance therewith at the earliest  
23 reasonable date.

24 The Agency shall adopt filing requirements and procedures  
25 which are necessary and appropriate for the issuance of NPDES  
26 permits, and which are consistent with the Act or regulations

1 adopted by the Board, and with the Federal Water Pollution  
2 Control Act, as now or hereafter amended, and regulations  
3 pursuant thereto.

4 The Agency, subject to any conditions which may be  
5 prescribed by Board regulations, may issue NPDES permits to  
6 allow discharges beyond deadlines established by this Act or by  
7 regulations of the Board without the requirement of a variance,  
8 subject to the Federal Water Pollution Control Act, as now or  
9 hereafter amended, and regulations pursuant thereto.

10 (c) Except for those facilities owned or operated by  
11 sanitary districts organized under the Metropolitan Water  
12 Reclamation District Act, no permit for the development or  
13 construction of a new pollution control facility may be granted  
14 by the Agency unless the applicant submits proof to the Agency  
15 that the location of the facility has been approved by the  
16 County Board of the county, hereinafter referred to as the  
17 "host county", if in an unincorporated area, or the governing  
18 body of the municipality, hereinafter referred to as the "host  
19 municipality", when in an incorporated area, in which the  
20 facility is to be located in accordance with Section 39.2 of  
21 this Act, except that (i) if an applicant seeks permission to  
22 dispose of hazardous or special waste at a facility, or the  
23 U.S. Environmental Protection Agency grants approval to an  
24 applicant to dispose of waste containing Polychlorinated  
25 Biphenyls or PCB's in accordance with 40 CFR Part 761 at a  
26 facility, and (ii) if the facility is located over an aquifer



1 that currently provides the sole source of potable water for a  
2 public water supply that constitutes a community water supply  
3 for one or more Illinois municipalities that are located  
4 outside of the host county or the host municipality, as the  
5 case may be, then the applicant shall also be required to  
6 submit proof to the agency that the location of the facility  
7 has been approved by the governing body of each municipality  
8 deriving its community water supply from that aquifer. For  
9 purposes of this subsection (c), and for purposes of Section  
10 39.2 of this Act, the appropriate county board or governing  
11 body of the municipality shall be the county board of the  
12 county or the governing body of the municipality in which the  
13 facility is to be located and any municipality other than a  
14 host municipality that derives the entirety of its community  
15 water supply from an aquifer located under the location of the  
16 facility as of the date when the application for siting  
17 approval is filed.

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

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

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

1 municipality.

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

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

26 Except for those facilities owned or operated by sanitary

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

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

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

24 (1) the municipal waste transfer station was in  
25 existence on or before January 1, 1979 and was in  
26 continuous operation from January 1, 1979 to January 1,

1 1993;

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

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

11 (4) the site has local zoning approval.

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

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

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

7           The Agency shall adopt filing requirements and procedures  
8 which are necessary and appropriate for the issuance of RCRA  
9 permits, and which are consistent with the Act or regulations  
10 adopted by the Board, and with the Resource Conservation and  
11 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations  
12 pursuant thereto.

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

22           (e) The Agency may issue UIC permits exclusively under this  
23 subsection to persons owning or operating a facility for the  
24 underground injection of contaminants as defined under this  
25 Act.

26           All UIC permits shall contain those terms and conditions,

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

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

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

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

26 (1) The Agency shall have authority to make the

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

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

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

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



1 Recorder of the county in which the hazardous waste disposal  
2 site is located.

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

1 the hazardous waste is from a response action, in which case  
2 the person performing the response action is the generator.  
3 This subsection (h) does not apply to any hazardous waste that  
4 is restricted from land disposal under 35 Ill. Adm. Code 728.

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

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

22 (2) conviction in this or another State of any crime  
23 which is a felony under the laws of this State, or  
24 conviction of a felony in a federal court; or conviction in  
25 this or another state or federal court of any of the  
26 following crimes: forgery, official misconduct, bribery,

1 perjury, or knowingly submitting false information under  
2 any environmental law, regulation, or permit term or  
3 condition; or

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

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

24 (j) The issuance under this Act of a permit to engage in  
25 the surface mining of any resources other than fossil fuels  
26 shall not relieve the permittee from its duty to comply with

1 any applicable local law regulating the commencement, location  
2 or operation of surface mining facilities.

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

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

20 (m) The Agency may issue permits to persons owning or  
21 operating a facility for composting landscape waste. In  
22 granting such permits, the Agency may impose such conditions as  
23 may be necessary to accomplish the purposes of this Act, and as  
24 are not inconsistent with applicable regulations promulgated  
25 by the Board. Except as otherwise provided in this Act, a bond  
26 or other security shall not be required as a condition for the

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

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

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

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

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

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

21 The Agency shall issue permits for such facilities upon  
22 receipt of an application that includes a legal description of  
23 the site, a topographic map of the site drawn to the scale of  
24 200 feet to the inch or larger, a description of the operation,  
25 including the area served, an estimate of the volume of  
26 materials to be processed, and documentation that:

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

3           (2) the facility is located outside the boundary of the  
4 10-year floodplain or the site will be floodproofed;

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

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

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

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

3           The Agency shall issue renewable permits of not longer than  
4           10 years in duration for the composting of landscape wastes, as  
5           defined in Section 3.155 of this Act, based on the above  
6           requirements.

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

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

16          (o) (Blank.)

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

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

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

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

17 (3) Each applicant for a permit described in part (1) of  
18 this subsection shall file a copy of the permit application  
19 with the county board or governing body of the municipality in  
20 which the MSWLF unit is or is proposed to be located at the  
21 same time the application is submitted to the Agency. The  
22 permit application filed with the county board or governing  
23 body of the municipality shall include all documents submitted  
24 to or to be submitted to the Agency, except trade secrets as  
25 determined under Section 7.1 of this Act. The permit  
26 application and other documents on file with the county board



1 or governing body of the municipality shall be made available  
2 for public inspection during regular business hours at the  
3 office of the county board or the governing body of the  
4 municipality and may be copied upon payment of the actual cost  
5 of reproduction.

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

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

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

25 (3) Within 2 years after the effective date of this  
26 amendatory Act of the 97th General Assembly, an online

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

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

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

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

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

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

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

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

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

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

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

11           Section 99. Effective date. This Act takes effect upon  
12 becoming law."