

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 Section 39 as follows:

6 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

7 Sec. 39. Issuance of permits; procedures.

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

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

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

14 (ii) the provision of the regulations, promulgated
15 under this Act, which may be violated if the permit were
16 granted;

17 (iii) the specific type of information, if any, which
18 the Agency deems the applicant did not provide the Agency;
19 and

20 (iv) a statement of specific reasons why the Act and
21 the regulations might not be met if the permit were
22 granted.

23 If there is no final action by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued; except that this time period shall
26 be extended to 180 days when (1) notice and opportunity for

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

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

17 After January 1, 1994 and until July 1, 1998, operating
18 permits issued under this Section by the Agency for sources of
19 air pollution permitted to emit less than 25 tons per year of
20 any combination of regulated air pollutants, as defined in
21 Section 39.5 of this Act, shall be required to be renewed only
22 upon written request by the Agency consistent with applicable
23 provisions of this Act and regulations promulgated hereunder.
24 Such operating permits shall expire 180 days after the date of
25 such a request. The Board shall revise its regulations for the
26 existing State air pollution operating permit program

1 consistent with this provision by January 1, 1994.

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

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

19 All NPDES permits shall contain those terms and conditions,
20 including but not limited to schedules of compliance, which may
21 be required to accomplish the purposes and provisions of this
22 Act.

23 The Agency may issue general NPDES permits for discharges
24 from categories of point sources which are subject to the same
25 permit limitations and conditions. Such general permits may be
26 issued without individual applications and shall conform to

1 regulations promulgated under Section 402 of the Federal Water
2 Pollution Control Act, as now or hereafter amended.

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

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

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

21 (c) Except for those facilities owned or operated by
22 sanitary districts organized under the Metropolitan Water
23 Reclamation District Act, no permit for the development or
24 construction of a new pollution control facility may be granted
25 by the Agency unless the applicant submits proof to the Agency
26 that the location of the facility has been approved by the

1 County Board of the county if in an unincorporated area, or the
2 governing body of the municipality when in an incorporated
3 area, in which the facility is to be located in accordance with
4 Section 39.2 of this Act. For purposes of this subsection (c),
5 and for purposes of Section 39.2 of this Act, the appropriate
6 county board or governing body of the municipality shall be the
7 county board of the county or the governing body of the
8 municipality in which the facility is to be located as of the
9 date when the application for siting approval is filed.

10 In the event that siting approval granted pursuant to
11 Section 39.2 has been transferred to a subsequent owner or
12 operator, that subsequent owner or operator may apply to the
13 Agency for, and the Agency may grant, a development or
14 construction permit for the facility for which local siting
15 approval was granted. Upon application to the Agency for a
16 development or construction permit by that subsequent owner or
17 operator, the permit applicant shall cause written notice of
18 the permit application to be served upon the appropriate county
19 board or governing body of the municipality that granted siting
20 approval for that facility and upon any party to the siting
21 proceeding pursuant to which siting approval was granted. In
22 that event, the Agency shall conduct an evaluation of the
23 subsequent owner or operator's prior experience in waste
24 management operations in the manner conducted under subsection
25 (i) of Section 39 of this Act.

26 Beginning August 20, 1993, if the pollution control

1 facility consists of a hazardous or solid waste disposal
2 facility for which the proposed site is located in an
3 unincorporated area of a county with a population of less than
4 100,000 and includes all or a portion of a parcel of land that
5 was, on April 1, 1993, adjacent to a municipality having a
6 population of less than 5,000, then the local siting review
7 required under this subsection (c) in conjunction with any
8 permit applied for after that date shall be performed by the
9 governing body of that adjacent municipality rather than the
10 county board of the county in which the proposed site is
11 located; and for the purposes of that local siting review, any
12 references in this Act to the county board shall be deemed to
13 mean the governing body of that adjacent municipality;
14 provided, however, that the provisions of this paragraph shall
15 not apply to any proposed site which was, on April 1, 1993,
16 owned in whole or in part by another municipality.

17 In the case of a pollution control facility for which a
18 development permit was issued before November 12, 1981, if an
19 operating permit has not been issued by the Agency prior to
20 August 31, 1989 for any portion of the facility, then the
21 Agency may not issue or renew any development permit nor issue
22 an original operating permit for any portion of such facility
23 unless the applicant has submitted proof to the Agency that the
24 location of the facility has been approved by the appropriate
25 county board or municipal governing body pursuant to Section
26 39.2 of this Act.

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

15 Except for those facilities owned or operated by sanitary
16 districts organized under the Metropolitan Water Reclamation
17 District Act, and except for new pollution control facilities
18 governed by Section 39.2, and except for fossil fuel mining
19 facilities, the granting of a permit under this Act shall not
20 relieve the applicant from meeting and securing all necessary
21 zoning approvals from the unit of government having zoning
22 jurisdiction over the proposed facility.

23 Before beginning construction on any new sewage treatment
24 plant or sludge drying site to be owned or operated by a
25 sanitary district organized under the Metropolitan Water
26 Reclamation District Act for which a new permit (rather than

1 the renewal or amendment of an existing permit) is required,
2 such sanitary district shall hold a public hearing within the
3 municipality within which the proposed facility is to be
4 located, or within the nearest community if the proposed
5 facility is to be located within an unincorporated area, at
6 which information concerning the proposed facility shall be
7 made available to the public, and members of the public shall
8 be given the opportunity to express their views concerning the
9 proposed facility.

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

13 (1) the municipal waste transfer station was in
14 existence on or before January 1, 1979 and was in
15 continuous operation from January 1, 1979 to January 1,
16 1993;

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

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

26 (4) the site has local zoning approval.

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

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

16 In the case of a permit to operate a hazardous waste or PCB
17 incinerator as defined in subsection (k) of Section 44, the
18 Agency shall require, as a condition of the permit, that the
19 operator of the facility perform such analyses of the waste to
20 be incinerated as may be necessary and appropriate to ensure
21 the safe operation of the incinerator.

22 The Agency shall adopt filing requirements and procedures
23 which are necessary and appropriate for the issuance of RCRA
24 permits, and which are consistent with the Act or regulations
25 adopted by the Board, and with the Resource Conservation and
26 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations

1 pursuant thereto.

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

11 (e) The Agency may issue UIC permits exclusively under this
12 subsection to persons owning or operating a facility for the
13 underground injection of contaminants as defined under this
14 Act.

15 All UIC permits shall contain those terms and conditions,
16 including but not limited to schedules of compliance, which may
17 be required to accomplish the purposes and provisions of this
18 Act. The Agency may include among such conditions standards and
19 other requirements established under this Act, Board
20 regulations, the Safe Drinking Water Act (P.L. 93-523), as
21 amended, and regulations pursuant thereto, and may include
22 schedules for achieving compliance therewith. The Agency shall
23 require that a performance bond or other security be provided
24 as a condition for the issuance of a UIC permit.

25 The Agency shall adopt filing requirements and procedures
26 which are necessary and appropriate for the issuance of UIC

1 permits, and which are consistent with the Act or regulations
2 adopted by the Board, and with the Safe Drinking Water Act
3 (P.L. 93-523), as amended, and regulations pursuant thereto.

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

13 (f) In making any determination pursuant to Section 9.1 of
14 this Act:

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

23 (2) The Agency shall, after conferring with the
24 applicant, give written notice to the applicant of its
25 proposed decision on the application including the terms
26 and conditions of the permit to be issued and the facts,

1 conduct or other basis upon which the Agency will rely to
2 support its proposed action.

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

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

18 (h) A hazardous waste stream may not be deposited in a
19 permitted hazardous waste site unless specific authorization
20 is obtained from the Agency by the generator and disposal site
21 owner and operator for the deposit of that specific hazardous
22 waste stream. The Agency may grant specific authorization for
23 disposal of hazardous waste streams only after the generator
24 has reasonably demonstrated that, considering technological
25 feasibility and economic reasonableness, the hazardous waste
26 cannot be reasonably recycled for reuse, nor incinerated or

1 chemically, physically or biologically treated so as to
2 neutralize the hazardous waste and render it nonhazardous. In
3 granting authorization under this Section, the Agency may
4 impose such conditions as may be necessary to accomplish the
5 purposes of the Act and are consistent with this Act and
6 regulations promulgated by the Board hereunder. If the Agency
7 refuses to grant authorization under this Section, the
8 applicant may appeal as if the Agency refused to grant a
9 permit, pursuant to the provisions of subsection (a) of Section
10 40 of this Act. For purposes of this subsection (h), the term
11 "generator" has the meaning given in Section 3.205 of this Act,
12 unless: (1) the hazardous waste is treated, incinerated, or
13 partially recycled for reuse prior to disposal, in which case
14 the last person who treats, incinerates, or partially recycles
15 the hazardous waste prior to disposal is the generator; or (2)
16 the hazardous waste is from a response action, in which case
17 the person performing the response action is the generator.
18 This subsection (h) does not apply to any hazardous waste that
19 is restricted from land disposal under 35 Ill. Adm. Code 728.

20 (i) Before issuing any RCRA permit, any permit for a waste
21 storage site, sanitary landfill, waste disposal site, waste
22 transfer station, waste treatment facility, waste incinerator,
23 or any waste-transportation operation, or any permit or interim
24 authorization for a clean construction or demolition debris
25 fill operation, or any permit required under subsection (d-5)
26 of Section 55, the Agency shall conduct an evaluation of the

1 prospective owner's or operator's prior experience in waste
2 management operations, ~~and~~ clean construction or demolition
3 debris fill operations, and tire storage site management. The
4 Agency may deny such a permit, or deny or revoke interim
5 authorization, if the prospective owner or operator or any
6 employee or officer of the prospective owner or operator has a
7 history of:

8 (1) repeated violations of federal, State, or local
9 laws, regulations, standards, or ordinances in the
10 operation of waste management facilities or sites, ~~or~~ clean
11 construction or demolition debris fill operation
12 facilities or sites, or tire storage sites; or

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

21 (3) proof of gross carelessness or incompetence in
22 handling, storing, processing, transporting or disposing
23 of waste, ~~or~~ clean construction or demolition debris, or
24 used or waste tires, or proof of gross carelessness or
25 incompetence in using clean construction or demolition
26 debris as fill.

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

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

21 (k) A development permit issued under subsection (a) of
22 Section 39 for any facility or site which is required to have a
23 permit under subsection (d) of Section 21 shall expire at the
24 end of 2 calendar years from the date upon which it was issued,
25 unless within that period the applicant has taken action to
26 develop the facility or the site. In the event that review of

1 the conditions of the development permit is sought pursuant to
2 Section 40 or 41, or permittee is prevented from commencing
3 development of the facility or site by any other litigation
4 beyond the permittee's control, such two-year period shall be
5 deemed to begin on the date upon which such review process or
6 litigation is concluded.

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

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

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

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

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

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

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

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

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

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

23 (3) the facility is located so as to minimize
24 incompatibility with the character of the surrounding
25 area, including at least a 200 foot setback from any
26 residence, and in the case of a facility that is developed

1 or the permitted composting area of which is expanded after
2 November 17, 1991, the composting area is located at least
3 1/8 mile from the nearest residence (other than a residence
4 located on the same property as the facility);

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

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

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

21 The Agency shall issue renewable permits of not longer than
22 10 years in duration for the composting of landscape wastes, as
23 defined in Section 3.155 of this Act, based on the above
24 requirements.

25 The operator of any facility permitted under this
26 subsection (m) must submit a written annual statement to the

1 Agency on or before April 1 of each year that includes an
2 estimate of the amount of material, in tons, received for
3 composting.

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

8 (o) (Blank.)

9 (p) (1) Any person submitting an application for a permit
10 for a new MSWLF unit or for a lateral expansion under
11 subsection (t) of Section 21 of this Act for an existing MSWLF
12 unit that has not received and is not subject to local siting
13 approval under Section 39.2 of this Act shall publish notice of
14 the application in a newspaper of general circulation in the
15 county in which the MSWLF unit is or is proposed to be located.
16 The notice must be published at least 15 days before submission
17 of the permit application to the Agency. The notice shall state
18 the name and address of the applicant, the location of the
19 MSWLF unit or proposed MSWLF unit, the nature and size of the
20 MSWLF unit or proposed MSWLF unit, the nature of the activity
21 proposed, the probable life of the proposed activity, the date
22 the permit application will be submitted, and a statement that
23 persons may file written comments with the Agency concerning
24 the permit application within 30 days after the filing of the
25 permit application unless the time period to submit comments is
26 extended by the Agency.

1 When a permit applicant submits information to the Agency
2 to supplement a permit application being reviewed by the
3 Agency, the applicant shall not be required to reissue the
4 notice under this subsection.

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

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

24 (q) Within 6 months after the effective date of this
25 amendatory Act of the 97th General Assembly, the Agency, in
26 consultation with the regulated community, shall develop a web

1 portal to be posted on its website for the purpose of enhancing
2 review and promoting timely issuance of permits required by
3 this Act. At a minimum, the Agency shall make the following
4 information available on the web portal:

5 (1) Checklists and guidance relating to the completion
6 of permit applications, developed pursuant to subsection
7 (s) of this Section, which may include, but are not limited
8 to, existing instructions for completing the applications
9 and examples of complete applications. As the Agency
10 develops new checklists and develops guidance, it shall
11 supplement the web portal with those materials.

12 (2) Within 2 years after the effective date of this
13 amendatory Act of the 97th General Assembly, permit
14 application forms or portions of permit applications that
15 can be completed and saved electronically, and submitted to
16 the Agency electronically with digital signatures.

17 (3) Within 2 years after the effective date of this
18 amendatory Act of the 97th General Assembly, an online
19 tracking system where an applicant may review the status of
20 its pending application, including the name and contact
21 information of the permit analyst assigned to the
22 application. Until the online tracking system has been
23 developed, the Agency shall post on its website semi-annual
24 permitting efficiency tracking reports that include
25 statistics on the timeframes for Agency action on the
26 following types of permits received after the effective

1 date of this amendatory Act of the 97th General Assembly:
2 air construction permits, new NPDES permits and associated
3 water construction permits, and modifications of major
4 NPDES permits and associated water construction permits.
5 The reports must be posted by February 1 and August 1 each
6 year and shall include:

7 (A) the number of applications received for each
8 type of permit, the number of applications on which the
9 Agency has taken action, and the number of applications
10 still pending; and

11 (B) for those applications where the Agency has not
12 taken action in accordance with the timeframes set
13 forth in this Act, the date the application was
14 received and the reasons for any delays, which may
15 include, but shall not be limited to, (i) the
16 application being inadequate or incomplete, (ii)
17 scientific or technical disagreements with the
18 applicant, USEPA, or other local, state, or federal
19 agencies involved in the permitting approval process,
20 (iii) public opposition to the permit, or (iv) Agency
21 staffing shortages. To the extent practicable, the
22 tracking report shall provide approximate dates when
23 cause for delay was identified by the Agency, when the
24 Agency informed the applicant of the problem leading to
25 the delay, and when the applicant remedied the reason
26 for the delay.

1 (r) Upon the request of the applicant, the Agency shall
2 notify the applicant of the permit analyst assigned to the
3 application upon its receipt.

4 (s) The Agency is authorized to prepare and distribute
5 guidance documents relating to its administration of this
6 Section and procedural rules implementing this Section.
7 Guidance documents prepared under this subsection shall not be
8 considered rules and shall not be subject to the Illinois
9 Administrative Procedure Act. Such guidance shall not be
10 binding on any party.

11 (t) Except as otherwise prohibited by federal law or
12 regulation, any person submitting an application for a permit
13 may include with the application suggested permit language for
14 Agency consideration. The Agency is not obligated to use the
15 suggested language or any portion thereof in its permitting
16 decision. If requested by the permit applicant, the Agency
17 shall meet with the applicant to discuss the suggested
18 language.

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

22 (v) If requested by the permit applicant, the Agency shall
23 provide the permit applicant with a copy of the final permit
24 prior to its issuance.

25 (w) An air pollution permit shall not be required due to
26 emissions of greenhouse gases, as specified by Section 9.15 of

1 this Act.

2 (x) If, before the expiration of a State operating permit
3 that is issued pursuant to subsection (a) of this Section and
4 contains federally enforceable conditions limiting the
5 potential to emit of the source to a level below the major
6 source threshold for that source so as to exclude the source
7 from the Clean Air Act Permit Program, the Agency receives a
8 complete application for the renewal of that permit, then all
9 of the terms and conditions of the permit shall remain in
10 effect until final administrative action has been taken on the
11 application for the renewal of the permit.

12 (Source: P.A. 97-95, eff. 7-12-11; 98-284, eff. 8-9-13.)

13 Section 10. The Uniform Environmental Covenants Act is
14 amended by changing Sections 2 and 11 as follows:

15 (765 ILCS 122/2)

16 Sec. 2. Definitions. In this Act:

17 ~~(1)~~ "Activity and use limitations" means restrictions or
18 obligations created under this Act with respect to real
19 property.

20 ~~(2)~~ "Agency" means the Illinois Environmental Protection
21 Agency or any other State or federal agency that determines or
22 approves the environmental response project pursuant to which
23 the environmental covenant is created.

24 "Board" means the Pollution Control Board established by

1 the Environmental Protection Act.

2 ~~(3)~~ "Common interest community" means a condominium,
3 cooperative, or other real property with respect to which a
4 person, by virtue of the person's ownership of a parcel of real
5 property, is obligated to pay property taxes or insurance
6 premiums, or for maintenance, or improvement of other real
7 property described in a recorded covenant that creates the
8 common interest community.

9 ~~(4)~~ "Environmental covenant" means a servitude that (i)
10 arises arising under an environmental response project or under
11 a court or Board order and (ii) that imposes activity and use
12 limitations.

13 ~~(5)~~ "Environmental response project" means a plan or work
14 that is:

15 (1) approved or overseen by an agency; and

16 (2) performed for environmental remediation of any
17 site or facility in response to contamination at any one or
18 more of real property at the following sites or facilities:

19 (A) ~~all~~ sites or facilities that are listed as
20 proposed or final on the National Priorities List
21 pursuant to Section 105 of the Comprehensive
22 Environmental Response, Compensation and Liability Act
23 of 1980, as amended (42 U.S.C. 9601 et seq.);

24 (B) ~~all~~ sites or facilities undergoing remediation
25 pursuant to an administrative order issued pursuant to
26 Section 106 of the Comprehensive Environmental

1 Response, Compensation and Liability Act of 1980, as
2 amended (42 U.S.C. 9601 et seq.);

3 (C) ~~all~~ sites or facilities that are or were
4 formerly owned or operated by a department, agency, or
5 instrumentality of the United States that are
6 undergoing remediation pursuant to Section 120 of the
7 Comprehensive Environmental Response, Compensation and
8 Liability Act of 1980, as amended (42 U.S.C. 9601 et
9 seq.);

10 (D) ~~all~~ sites or facilities undergoing remediation
11 pursuant to a settlement agreement pursuant to Section
12 122 of the Comprehensive Environmental Response,
13 Compensation and Liability Act of 1980, as amended (42
14 U.S.C. 9601 et seq.);

15 (E) ~~all~~ sites or facilities undergoing remediation
16 pursuant to Section 3008(h) of the Resource
17 Conservation and Recovery Act of 1976 (42 U.S.C. 6901
18 et seq.);

19 (F) ~~all~~ sites or facilities undergoing remediation
20 pursuant to Section 7003 of the Resource Conservation
21 and Recovery Act of 1976 (42 U.S.C. 6901 et seq.); ~~or~~

22 (G) ~~all~~ sites or facilities undergoing remediation
23 pursuant to a court or Board ~~board~~ order issued
24 pursuant to the Illinois Environmental Protection Act
25 (415 ILCS 5/1 et seq.) with the approval of the Agency;
26 or.

1 (H) sites or facilities undergoing remediation
2 pursuant to a Compliance Commitment Agreement entered
3 into under Section 31 of the Environmental Protection
4 Act.

5 ~~(6)~~ "Holder" means the grantee of an environmental covenant
6 as specified in Section 3(a).

7 ~~(7)~~ "Person" means an individual, corporation, business
8 trust, estate, trust, partnership, limited liability company,
9 association, joint venture, public corporation, government,
10 governmental subdivision, agency, or instrumentality, or any
11 other legal or commercial entity.

12 ~~(8)~~ "Prior interest" means a preceding or senior interest,
13 in time or in right, that is recorded with respect to the real
14 property, including but not limited to a mortgage, easement, or
15 other interest, lien, or encumbrance predating the recording of
16 an environmental covenant.

17 ~~(9)~~ "Record", used as a noun, means information that is
18 inscribed on a tangible medium or that is stored in an
19 electronic or other medium and is retrievable in perceivable
20 form.

21 ~~(10)~~ "State" means a state of the United States, the
22 District of Columbia, Puerto Rico, the United States Virgin
23 Islands, or any territory or insular possession subject to the
24 jurisdiction of the United States.

25 (Source: P.A. 95-845, eff. 1-1-09.)

1 (765 ILCS 122/11)

2 Sec. 11. Enforcement of environmental covenant.

3 (a) A civil action for injunctive or other equitable relief
4 for violation of an environmental covenant may be maintained
5 by:

6 (1) A party to the covenant.

7 (2) The agency or, if it is not the agency, the
8 Illinois Environmental Protection Agency.

9 (3) Any person to whom the covenant expressly grants
10 power to enforce.

11 (4) A person whose interest in the real property or
12 whose collateral or liability may be affected by the
13 alleged violation of the covenant.

14 (5) A municipality or other unit of local government in
15 which the real property subject to the covenant is located.

16 (6) Any agency that is enforcing the terms of any court
17 or Board order.

18 (b) This Act does not limit the regulatory authority of the
19 agency or the Illinois Environmental Protection Agency under
20 law other than this Act with respect to an environmental
21 response project.

22 (c) A person is not responsible for or subject to liability
23 for environmental remediation solely because it has the right
24 to enforce an environmental covenant.

25 (Source: P.A. 95-845, eff. 1-1-09.)

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

1 becoming law.