

1 AMENDMENT TO SENATE BILL 356

2 AMENDMENT NO. _____. Amend Senate Bill 356, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Environmental Protection Act is amended
6 by changing Section 39 as follows:

7 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

8 Sec. 39. Issuance of permits; procedures.

9 (a) When the Board has by regulation required a permit
10 for the construction, installation, or operation of any type
11 of facility, equipment, vehicle, vessel, or aircraft, the
12 applicant shall apply to the Agency for such permit and it
13 shall be the duty of the Agency to issue such a permit upon
14 proof by the applicant that the facility, equipment, vehicle,
15 vessel, or aircraft will not cause a violation of this Act or
16 of regulations hereunder. The Agency shall adopt such
17 procedures as are necessary to carry out its duties under
18 this Section. In granting permits the Agency may impose such
19 conditions as may be necessary to accomplish the purposes of
20 this Act, and as are not inconsistent with the regulations
21 promulgated by the Board hereunder. Except as otherwise
22 provided in this Act, a bond or other security shall not be

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

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

9 (ii) the provision of the regulations, promulgated
10 under this Act, which may be violated if the permit were
11 granted;

12 (iii) the specific type of information, if any,
13 which the Agency deems the applicant did not provide the
14 Agency; and

15 (iv) a statement of specific reasons why the Act
16 and the regulations might not be met if the permit were
17 granted.

18 If there is no final action by the Agency within 90 days
19 after the filing of the application for permit, the applicant
20 may deem the permit issued; except that this time period
21 shall be extended to 180 days when (1) notice and
22 opportunity for public hearing are required by State or
23 federal law or regulation, (2) the application which was
24 filed is for any permit to develop a landfill subject to
25 issuance pursuant to this subsection, or (3) the application
26 that was filed is for a MSWLF unit required to issue public
27 notice under subsection (p) of Section 39.

28 The Agency shall publish notice of all final permit
29 determinations for development permits for MSWLF units and
30 for significant permit modifications for lateral expansions
31 for existing MSWLF units one time in a newspaper of general
32 circulation in the county in which the unit is or is proposed
33 to be located.

34 After January 1, 1994 and until July 1, 1998, operating

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

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

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

30 All NPDES permits shall contain those terms and
31 conditions, including but not limited to schedules of
32 compliance, which may be required to accomplish the purposes
33 and provisions of this Act.

34 The Agency may issue general NPDES permits for discharges

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

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

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

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

26 (c) Except for those facilities owned or operated by
27 sanitary districts organized under the Metropolitan Water
28 Reclamation District Act, no permit for the development or
29 construction of a new pollution control facility may be
30 granted by the Agency unless the applicant submits proof to
31 the Agency that the location of the facility has been
32 approved by the County Board of the county if in an
33 unincorporated area, or the governing body of the
34 municipality when in an incorporated area, in which the

1 facility is to be located in accordance with Section 39.2 of
2 this Act.

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

19 Beginning August 20, 1993, if the pollution control
20 facility consists of a hazardous or solid waste disposal
21 facility for which the proposed site is located in an
22 unincorporated area of a county with a population of less
23 than 100,000 and includes all or a portion of a parcel of
24 land that was, on April 1, 1993, adjacent to a municipality
25 having a population of less than 5,000, then the local siting
26 review required under this subsection (c) in conjunction with
27 any permit applied for after that date shall be performed by
28 the governing body of that adjacent municipality rather than
29 the county board of the county in which the proposed site is
30 located; and for the purposes of that local siting review,
31 any references in this Act to the county board shall be
32 deemed to mean the governing body of that adjacent
33 municipality; provided, however, that the provisions of this
34 paragraph shall not apply to any proposed site which was, on

1 April 1, 1993, owned in whole or in part by another
2 municipality.

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

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

28 Except for those facilities owned or operated by sanitary
29 districts organized under the Metropolitan Water Reclamation
30 District Act, and except for new pollution control facilities
31 governed by Section 39.2, and except for fossil fuel mining
32 facilities, the granting of a permit under this Act shall not
33 relieve the applicant from meeting and securing all necessary
34 zoning approvals from the unit of government having zoning

1 jurisdiction over the proposed facility.

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

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

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

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

26 (3) the operator can demonstrate that the county
27 board of the county, if the municipal waste transfer
28 station is in an unincorporated area, or the governing
29 body of the municipality, if the station is in an
30 incorporated area, does not object to resumption of the
31 operation of the station; and

32 (4) the site has local zoning approval.

33 (d) The Agency may issue RCRA permits exclusively under
34 this subsection to persons owning or operating a facility for

1 the treatment, storage, or disposal of hazardous waste as
2 defined under this Act.

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

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

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

27 The applicant shall make available to the public for
28 inspection all documents submitted by the applicant to the
29 Agency in furtherance of an application, with the exception
30 of trade secrets, at the office of the county board or
31 governing body of the municipality. Such documents may be
32 copied upon payment of the actual cost of reproduction during
33 regular business hours of the local office. The Agency shall
34 issue a written statement concurrent with its grant or denial

1 of the permit explaining the basis for its decision.

2 (e) The Agency may issue UIC permits exclusively under
3 this subsection to persons owning or operating a facility for
4 the underground injection of contaminants as defined under
5 this Act.

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

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

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

30 (f) In making any determination pursuant to Section 9.1
31 of this Act:

32 (1) The Agency shall have authority to make the
33 determination of any question required to be determined
34 by the Clean Air Act, as now or hereafter amended, this

1 Act, or the regulations of the Board, including the
2 determination of the Lowest Achievable Emission Rate,
3 Maximum Achievable Control Technology, or Best Available
4 Control Technology, consistent with the Board's
5 regulations, if any.

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

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

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

27 (h) A hazardous waste stream may not be deposited in a
28 permitted hazardous waste site unless specific authorization
29 is obtained from the Agency by the generator and disposal
30 site owner and operator for the deposit of that specific
31 hazardous waste stream. The Agency may grant specific
32 authorization for disposal of hazardous waste streams only
33 after the generator has reasonably demonstrated that,
34 considering technological feasibility and economic

1 reasonable, the hazardous waste cannot be reasonably
2 recycled for reuse, nor incinerated or chemically, physically
3 or biologically treated so as to neutralize the hazardous
4 waste and render it nonhazardous. In granting authorization
5 under this Section, the Agency may impose such conditions as
6 may be necessary to accomplish the purposes of the Act and
7 are consistent with this Act and regulations promulgated by
8 the Board hereunder. If the Agency refuses to grant
9 authorization under this Section, the applicant may appeal as
10 if the Agency refused to grant a permit, pursuant to the
11 provisions of subsection (a) of Section 40 of this Act. For
12 purposes of this subsection (h), the term "generator" has the
13 meaning given in Section 3.12 of this Act, unless: (1) the
14 hazardous waste is treated, incinerated, or partially
15 recycled for reuse prior to disposal, in which case the last
16 person who treats, incinerates, or partially recycles the
17 hazardous waste prior to disposal is the generator; or (2)
18 the hazardous waste is from a response action, in which case
19 the person performing the response action is the generator.
20 This subsection (h) does not apply to any hazardous waste
21 that is restricted from land disposal under 35 Ill. Adm. Code
22 728.

23 (i) Before issuing any RCRA permit or any permit for a
24 waste storage site, sanitary landfill, waste disposal site,
25 waste transfer station, waste treatment facility, waste
26 incinerator, or any waste-transportation operation, the
27 Agency shall conduct an evaluation of the prospective owner's
28 or operator's prior experience in waste management
29 operations. The Agency may deny such a permit if the
30 prospective owner or operator or any employee or officer of
31 the prospective owner or operator has a history of:

32 (1) repeated violations of federal, State, or local
33 laws, regulations, standards, or ordinances in the
34 operation of waste management facilities or sites; or

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

4 (3) proof of gross carelessness or incompetence in
5 handling, storing, processing, transporting or disposing
6 of waste.

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

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

24 (k-5) A development or construction permit issued
25 pursuant to subsection (c) of this Section for a facility or
26 site that is required to have a permit under subsection (d)
27 of Section 21 of this Act for a waste-disposal operation
28 shall expire at the end of 10 calendar years after the date
29 upon which it was issued if that facility (i) was exempt from
30 obtaining local siting approval pursuant to Section 39.2 of
31 this Act at the time the development or construction permit
32 for that facility was issued by the Agency and (ii) has not
33 lawfully received waste pursuant to an operating permit
34 issued by the Agency within that 10-year period.

1 (1) No permit shall be issued by the Agency under this
2 Act for construction or operation of any facility or site
3 located within the boundaries of any setback zone established
4 pursuant to this Act, where such construction or operation is
5 prohibited.

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

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

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

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

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

30 If no final action is taken by the Agency within 90 days
31 after the filing of the application for permit, the applicant
32 may deem the permit issued. Any applicant for a permit may
33 waive the 90 day limitation by filing a written statement
34 with the Agency.

1 The Agency shall issue permits for such facilities upon
2 receipt of an application that includes a legal description
3 of the site, a topographic map of the site drawn to the scale
4 of 200 feet to the inch or larger, a description of the
5 operation, including the area served, an estimate of the
6 volume of materials to be processed, and documentation that:

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

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

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

20 (4) the design of the facility will prevent any
21 compost material from being placed within 5 feet of the
22 water table, will adequately control runoff from the
23 site, and will collect and manage any leachate that is
24 generated on the site;

25 (5) the operation of the facility will include
26 appropriate dust and odor control measures, limitations
27 on operating hours, appropriate noise control measures
28 for shredding, chipping and similar equipment, management
29 procedures for composting, containment and disposal of
30 non-compostable wastes, procedures to be used for
31 terminating operations at the site, and recordkeeping
32 sufficient to document the amount of materials received,
33 composted and otherwise disposed of; and

34 (6) the operation will be conducted in accordance

1 with any applicable rules adopted by the Board.

2 The Agency shall issue renewable permits of not longer
3 than 10 years in duration for the composting of landscape
4 wastes, as defined in Section 3.70 of this Act, based on the
5 above requirements.

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

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

15 (o) From September 4, 1990 until December 31, 1993, no
16 permit shall be issued by the Agency for the development or
17 construction of any new facility intended to be used for the
18 incineration of any hazardous waste. This subsection shall
19 not apply to facilities intended for use for combustion of
20 potentially infectious medical waste, for use as part of a
21 State or federally designated clean-up action, or for use
22 solely for the conduct of research and the development and
23 demonstration of technologies for the incineration of
24 hazardous waste.

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

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

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

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

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

33 (Source: P.A. 89-487, eff. 6-21-96; 89-556, eff. 7-26-96;
34 90-14, eff. 7-1-97; 90-367, eff. 8-10-97; 90-537, eff.

1 11-26-97; 90-655, eff 7-30-98.)

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

3 becoming law."