

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 State Finance Act is amended by adding
5 Section 5.755 as follows:

6 (30 ILCS 105/5.755 new)

7 Sec. 5.755. The Expedited Permitting Fund.

8 Section 10. The Environmental Protection Act is amended by
9 changing Sections 4 and 39 and by adding Section 39.6 as
10 follows:

11 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

12 Sec. 4. Environmental Protection Agency; establishment;
13 duties.

14 (a) There is established in the Executive Branch of the
15 State Government an agency to be known as the Environmental
16 Protection Agency. This Agency shall be under the supervision
17 and direction of a Director who shall be appointed by the
18 Governor with the advice and consent of the Senate. The term of
19 office of the Director shall expire on the third Monday of
20 January in odd numbered years, provided that he or she shall
21 hold office until a successor is appointed and has qualified.

1 The Director shall receive an annual salary as set by the
2 Compensation Review Board. The Director, in accord with the
3 Personnel Code, shall employ and direct such personnel, and
4 shall provide for such laboratory and other facilities, as may
5 be necessary to carry out the purposes of this Act. In
6 addition, the Director may by agreement secure such services as
7 he or she may deem necessary from any other department, agency,
8 or unit of the State Government, and may employ and compensate
9 such consultants and technical assistants as may be required.

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

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

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

24 (1) Inspecting and investigating to ascertain possible
25 violations of this Act, any rule or regulation adopted
26 under this Act, any permit or term or condition of a

1 permit, or any Board order; or

2 (2) In accordance with the provisions of this Act,
3 taking whatever preventive or corrective action, including
4 but not limited to removal or remedial action, that is
5 necessary or appropriate whenever there is a release or a
6 substantial threat of a release of (A) a hazardous
7 substance or pesticide or (B) petroleum from an underground
8 storage tank.

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

15 (f) The Agency shall appear before the Board in any hearing
16 upon a petition for variance, the denial of a permit, or the
17 validity or effect of a rule or regulation of the Board, and
18 shall have the authority to appear before the Board in any
19 hearing under the Act.

20 (g) The Agency shall have the duty to administer, in accord
21 with Title X of this Act, such permit and certification systems
22 as may be established by this Act or by regulations adopted
23 thereunder. The Agency may enter into written delegation
24 agreements with any department, agency, or unit of State or
25 local government under which all or portions of this duty may
26 be delegated for public water supply storage and transport

1 systems, sewage collection and transport systems, air
2 pollution control sources with uncontrolled emissions of 100
3 tons per year or less and application of algicides to waters of
4 the State. Such delegation agreements will require that the
5 work to be performed thereunder will be in accordance with
6 Agency criteria, subject to Agency review, and shall include
7 such financial and program auditing by the Agency as may be
8 required.

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

17 (i) The Agency shall have authority to make recommendations
18 to the Board for the adoption of regulations under Title VII of
19 the Act.

20 (j) The Agency shall have the duty to represent the State
21 of Illinois in any and all matters pertaining to plans,
22 procedures, or negotiations for interstate compacts or other
23 governmental arrangements relating to environmental
24 protection.

25 (k) The Agency shall have the authority to accept, receive,
26 and administer on behalf of the State any grants, gifts, loans,

1 indirect cost reimbursements, or other funds made available to
2 the State from any source for purposes of this Act or for air
3 or water pollution control, public water supply, solid waste
4 disposal, noise abatement, or other environmental protection
5 activities, surveys, or programs. Any federal funds received by
6 the Agency pursuant to this subsection shall be deposited in a
7 trust fund with the State Treasurer and held and disbursed by
8 him in accordance with Treasurer as Custodian of Funds Act,
9 provided that such monies shall be used only for the purposes
10 for which they are contributed and any balance remaining shall
11 be returned to the contributor.

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

15 (1) The Agency is hereby designated as water pollution
16 agency for the state for all purposes of the Federal Water
17 Pollution Control Act, as amended; as implementing agency for
18 the State for all purposes of the Safe Drinking Water Act,
19 Public Law 93-523, as now or hereafter amended, except Section
20 1425 of that Act; as air pollution agency for the state for all
21 purposes of the Clean Air Act of 1970, Public Law 91-604,
22 approved December 31, 1970, as amended; and as solid waste
23 agency for the state for all purposes of the Solid Waste
24 Disposal Act, Public Law 89-272, approved October 20, 1965, and
25 amended by the Resource Recovery Act of 1970, Public Law
26 91-512, approved October 26, 1970, as amended, and amended by

1 the Resource Conservation and Recovery Act of 1976, (P.L.
2 94-580) approved October 21, 1976, as amended; as noise control
3 agency for the state for all purposes of the Noise Control Act
4 of 1972, Public Law 92-574, approved October 27, 1972, as
5 amended; and as implementing agency for the State for all
6 purposes of the Comprehensive Environmental Response,
7 Compensation, and Liability Act of 1980 (P.L. 96-510), as
8 amended; and otherwise as pollution control agency for the
9 State pursuant to federal laws integrated with the foregoing
10 laws, for financing purposes or otherwise. The Agency is hereby
11 authorized to take all action necessary or appropriate to
12 secure to the State the benefits of such federal Acts, provided
13 that the Agency shall transmit to the United States without
14 change any standards adopted by the Pollution Control Board
15 pursuant to Section 5(c) of this Act. This subsection (l) of
16 Section 4 shall not be construed to bar or prohibit the
17 Environmental Protection Trust Fund Commission from accepting,
18 receiving, and administering on behalf of the State any grants,
19 gifts, loans or other funds for which the Commission is
20 eligible pursuant to the Environmental Protection Trust Fund
21 Act. The Agency is hereby designated as the State agency for
22 all purposes of administering the requirements of Section 313
23 of the federal Emergency Planning and Community Right-to-Know
24 Act of 1986.

25 Any municipality, sanitary district, or other political
26 subdivision, or any Agency of the State or interstate Agency,

1 which makes application for loans or grants under such federal
2 Acts shall notify the Agency of such application; the Agency
3 may participate in proceedings under such federal Acts.

4 (m) The Agency shall have authority, consistent with
5 Section 5(c) and other provisions of this Act, and for purposes
6 of Section 303(e) of the Federal Water Pollution Control Act,
7 as now or hereafter amended, to engage in planning processes
8 and activities and to develop plans in cooperation with units
9 of local government, state agencies and officers, and other
10 appropriate persons in connection with the jurisdiction or
11 duties of each such unit, agency, officer or person. Public
12 hearings shall be held on the planning process, at which any
13 person shall be permitted to appear and be heard, pursuant to
14 procedural regulations promulgated by the Agency.

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

26 (o) The Agency shall have the authority to issue

1 certificates of competency to persons and laboratories meeting
2 the minimum standards established by the Agency in accordance
3 with Section 4(n) of this Act and to promulgate and enforce
4 regulations relevant to the issuance and use of such
5 certificates. The Agency may enter into formal working
6 agreements with other departments or agencies of state
7 government under which all or portions of this authority may be
8 delegated to the cooperating department or agency.

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

22 (q) The Agency shall have the authority to provide notice
23 to any person who may be liable pursuant to Section 22.2(f) of
24 this Act for a release or a substantial threat of a release of
25 a hazardous substance or pesticide. Such notice shall include
26 the identified response action and an opportunity for such

1 person to perform the response action.

2 (r) The Agency may enter into written delegation agreements
3 with any unit of local government under which it may delegate
4 all or portions of its inspecting, investigating and
5 enforcement functions. Such delegation agreements shall
6 require that work performed thereunder be in accordance with
7 Agency criteria and subject to Agency review. Notwithstanding
8 any other provision of law to the contrary, no unit of local
9 government shall be liable for any injury resulting from the
10 exercise of its authority pursuant to such a delegation
11 agreement unless the injury is proximately caused by the
12 willful and wanton negligence of an agent or employee of the
13 unit of local government, and any policy of insurance coverage
14 issued to a unit of local government may provide for the denial
15 of liability and the nonpayment of claims based upon injuries
16 for which the unit of local government is not liable pursuant
17 to this subsection (r).

18 (s) The Agency shall have authority to take whatever
19 preventive or corrective action is necessary or appropriate,
20 including but not limited to expenditure of monies appropriated
21 from the Build Illinois Bond Fund and the Build Illinois
22 Purposes Fund for removal or remedial action, whenever any
23 hazardous substance or pesticide is released or there is a
24 substantial threat of such a release into the environment. The
25 State, the Director, and any State employee shall be
26 indemnified for any damages or injury arising out of or

1 resulting from any action taken under this subsection. The
2 Director of the Agency is authorized to enter into such
3 contracts and agreements as are necessary to carry out the
4 Agency's duties under this subsection.

5 (t) The Agency shall have authority to distribute grants,
6 subject to appropriation by the General Assembly, to units of
7 local government for financing and construction of wastewater
8 facilities in both incorporated and unincorporated areas. With
9 respect to all monies appropriated from the Build Illinois Bond
10 Fund and the Build Illinois Purposes Fund for wastewater
11 facility grants, the Agency shall make distributions in
12 conformity with the rules and regulations established pursuant
13 to the Anti-Pollution Bond Act, as now or hereafter amended.

14 (u) Pursuant to the Illinois Administrative Procedure Act,
15 the Agency shall have the authority to adopt such rules as are
16 necessary or appropriate for the Agency to implement Section
17 31.1 of this Act.

18 (v) (Blank.)

19 (w) Neither the State, nor the Director, nor the Board, nor
20 any State employee shall be liable for any damages or injury
21 arising out of or resulting from any action taken under
22 subsection (s).

23 (x) (1) The Agency shall have authority to distribute
24 grants, subject to appropriation by the General Assembly,
25 to units of local government for financing and construction
26 of public water supply facilities. With respect to all

1 monies appropriated from the Build Illinois Bond Fund or
2 the Build Illinois Purposes Fund for public water supply
3 grants, such grants shall be made in accordance with rules
4 promulgated by the Agency. Such rules shall include a
5 requirement for a local match of 30% of the total project
6 cost for projects funded through such grants.

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

26 (y) The Agency shall have authority to release any person

1 from further responsibility for preventive or corrective
2 action under this Act following successful completion of
3 preventive or corrective action undertaken by such person upon
4 written request by the person.

5 (z) To the extent permitted by any applicable federal law
6 or regulation, for all work performed for State construction
7 projects which are funded in whole or in part by a capital
8 infrastructure bill enacted by the 96th General Assembly by
9 sums appropriated to the Environmental Protection Agency, at
10 least 50% of the total labor hours must be performed by actual
11 residents of the State of Illinois. For purposes of this
12 subsection, "actual residents of the State of Illinois" means
13 persons domiciled in the State of Illinois. The Department of
14 Labor shall promulgate rules providing for the enforcement of
15 this subsection.

16 (aa) The Agency shall create a permit expediting unit for
17 the purpose of implementing an expedited permitting process for
18 air and water construction permits within 6 months after the
19 effective date of this amendatory Act of the 96th General
20 Assembly.

21 (1) Permit applicants may access the expedited
22 permitting process if the permit is necessary to commence a
23 construction or maintenance project that results in an
24 investment by the applicant of at least \$10 million and the
25 applicant pays an expedited permit fee, to be established
26 by the Agency by regulation, but not to exceed 200% of the

1 standard fee for an unexpedited permit. The amount of the
2 fee in excess of a standard permit fee shall be payable
3 only upon final permit issuance. All fees collected by the
4 Agency under this Section shall be deposited into the
5 Expedited Permit Fund, which is hereby created as a special
6 fund in the State treasury.

7 Subject to appropriation, the moneys in the Fund shall
8 be used by the Agency to carry out the Agency's expedited
9 permitting activities.

10 (2) The Agency shall issue an expedited final permit no
11 more than 120 days after the date the Agency has deemed the
12 application to be complete. If for any reason a permit is
13 not issued within 120 days, the permit applicant's
14 expedited permit fee shall be reduced to the standard
15 permit fee.

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

18 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

19 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

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

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

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

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

24 The Agency shall, within 6 months after the effective date
25 of this amendatory Act of the 96th General Assembly, form and
26 convene a stakeholders group for the purpose of creating a

1 priority list of suitable categories of sources to focus
2 efforts in developing general permits. Upon completion of the
3 priority list, within 12 months, the Agency shall have
4 finalized at least 5 general permits, with an additional 5 to
5 be finalized after 24 months, and another 5 after 36 months.
6 The existence of a general permit for a particular source
7 category shall not preclude an owner or operator of a facility
8 from pursuing a facility-specific permit.

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

14 All NPDES permits shall contain those terms and conditions,
15 including but not limited to schedules of compliance, which may
16 be required to accomplish the purposes and provisions of this
17 Act.

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

24 The Agency may include, among such conditions, effluent
25 limitations and other requirements established under this Act,
26 Board regulations, the Federal Water Pollution Control Act, as

1 now or hereafter amended, and regulations pursuant thereto, and
2 schedules for achieving compliance therewith at the earliest
3 reasonable date.

4 The Agency shall adopt filing requirements and procedures
5 which are necessary and appropriate for the issuance of NPDES
6 permits, and which are consistent with the Act or regulations
7 adopted by the Board, and with the Federal Water Pollution
8 Control Act, as now or hereafter amended, and regulations
9 pursuant thereto.

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

16 The Agency shall adopt an expedited process for those NPDES
17 permit renewals if the applicant determines and certifies that
18 no change necessitating a permit revision has occurred to:

19 (1) any applicable State or federal statute or
20 regulation; or

21 (2) the characteristics of the permitted discharge.

22 The Agency shall adopt guidance to assist applicants in
23 making such determinations.

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

1 construction of a new pollution control facility may be granted
2 by the Agency unless the applicant submits proof to the Agency
3 that the location of the facility has been approved by the
4 County Board of the county if in an unincorporated area, or the
5 governing body of the municipality when in an incorporated
6 area, in which the facility is to be located in accordance with
7 Section 39.2 of this Act. For purposes of this subsection (c),
8 and for purposes of Section 39.2 of this Act, the appropriate
9 county board or governing body of the municipality shall be the
10 county board of the county or the governing body of the
11 municipality in which the facility is to be located as of the
12 date when the application for siting approval is filed.

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

1 management operations in the manner conducted under subsection
2 (i) of Section 39 of this Act.

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

20 In the case of a pollution control facility for which a
21 development permit was issued before November 12, 1981, if an
22 operating permit has not been issued by the Agency prior to
23 August 31, 1989 for any portion of the facility, then the
24 Agency may not issue or renew any development permit nor issue
25 an original operating permit for any portion of such facility
26 unless the applicant has submitted proof to the Agency that the

1 location of the facility has been approved by the appropriate
2 county board or municipal governing body pursuant to Section
3 39.2 of this Act.

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

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

26 Before beginning construction on any new sewage treatment

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

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

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

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

23 (3) the operator can demonstrate that the county board
24 of the county, if the municipal waste transfer station is
25 in an unincorporated area, or the governing body of the
26 municipality, if the station is in an incorporated area,

1 does not object to resumption of the operation of the
2 station; and

3 (4) the site has local zoning approval.

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

8 All RCRA 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. The Agency may include among such conditions standards and
12 other requirements established under this Act, Board
13 regulations, the Resource Conservation and Recovery Act of 1976
14 (P.L. 94-580), as amended, and regulations pursuant thereto,
15 and may include schedules for achieving compliance therewith as
16 soon as possible. The Agency shall require that a performance
17 bond or other security be provided as a condition for the
18 issuance of a RCRA permit.

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

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

1 permits, and which are consistent with the Act or regulations
2 adopted by the Board, and with the Resource Conservation and
3 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
4 pursuant thereto.

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

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

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

1 as a condition for the issuance of a UIC permit.

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

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

16 (f) In making any determination pursuant to Section 9.1 of
17 this Act:

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

26 (2) The Agency shall, after conferring with the

1 applicant, give written notice to the applicant of its
2 proposed decision on the application including the terms
3 and conditions of the permit to be issued and the facts,
4 conduct or other basis upon which the Agency will rely to
5 support its proposed action.

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

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

21 (h) A hazardous waste stream may not be deposited in a
22 permitted hazardous waste site unless specific authorization
23 is obtained from the Agency by the generator and disposal site
24 owner and operator for the deposit of that specific hazardous
25 waste stream. The Agency may grant specific authorization for
26 disposal of hazardous waste streams only after the generator

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

23 (i) Before issuing any RCRA permit, any permit for a waste
24 storage site, sanitary landfill, waste disposal site, waste
25 transfer station, waste treatment facility, waste incinerator,
26 or any waste-transportation operation, or any permit or interim

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

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

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

22 (3) proof of gross carelessness or incompetence in
23 handling, storing, processing, transporting or disposing
24 of waste or clean construction or demolition debris, or
25 proof of gross carelessness or incompetence in using clean
26 construction or demolition 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 (Source: P.A. 94-272, eff. 7-19-05; 94-725, eff. 6-1-06;
25 95-288, eff. 8-20-07.)

1 (415 ILCS 5/39.6 new)

2 Sec. 39.6. Air permits by rule.

3 (a) The Board may, by rule, adopt construction and
4 operating air permits for classes of facilities or equipment.
5 The Board may not, by rule, adopt an air permit authorizing
6 construction of any facility defined as a "major source" under
7 any applicable preconstruction permitting requirements of the
8 federal Clean Air Act or regulations adopted under that Act.
9 Proposals for permits authorized under this Section may be
10 filed by any person.

11 (b) The Board shall, by rule, specifically define the terms
12 and conditions for obtaining a permit under this Section.

13 (c) The Agency shall issue permits to the owners or
14 operators of facilities or equipment that satisfy the
15 requirements established by Board rule under this Section, upon
16 notification of the Agency of the owner or operator's intent to
17 construct and operate under a permit established under this
18 Section.

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

21 (e) The existence of a permit by rule for a particular
22 class of facility or equipment shall not preclude an owner or
23 operator of a facility or equipment from pursuing an individual
24 permit specifically for that facility or equipment.