



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 3344

2 AMENDMENT NO. _____. Amend Senate Bill 3344 by replacing
3 everything after the enacting clause with the following:

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

1 State Government an agency to be known as the Environmental
2 Protection Agency. This Agency shall be under the supervision
3 and direction of a Director who shall be appointed by the
4 Governor with the advice and consent of the Senate. The term of
5 office of the Director shall expire on the third Monday of
6 January in odd numbered years, provided that he or she shall
7 hold office until a successor is appointed and has qualified.
8 The Director shall receive an annual salary as set by the
9 Compensation Review Board. The Director, in accord with the
10 Personnel Code, shall employ and direct such personnel, and
11 shall provide for such laboratory and other facilities, as may
12 be necessary to carry out the purposes of this Act. In
13 addition, the Director may by agreement secure such services as
14 he or she may deem necessary from any other department, agency,
15 or unit of the State Government, and may employ and compensate
16 such consultants and technical assistants as may be required.

17 (b) The Agency shall have the duty to collect and
18 disseminate such information, acquire such technical data, and
19 conduct such experiments as may be required to carry out the
20 purposes of this Act, including ascertainment of the quantity
21 and nature of discharges from any contaminant source and data
22 on those sources, and to operate and arrange for the operation
23 of devices for the monitoring of environmental quality.

24 (c) The Agency shall have authority to conduct a program of
25 continuing surveillance and of regular or periodic inspection
26 of actual or potential contaminant or noise sources, of public

1 water supplies, and of refuse disposal sites.

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

5 (1) Inspecting and investigating to ascertain possible
6 violations of this Act, any rule or regulation adopted
7 under this Act, any permit or term or condition of a
8 permit, or any Board order; or

9 (2) In accordance with the provisions of this Act,
10 taking whatever preventive or corrective action, including
11 but not limited to removal or remedial action, that is
12 necessary or appropriate whenever there is a release or a
13 substantial threat of a release of (A) a hazardous
14 substance or pesticide or (B) petroleum from an underground
15 storage tank.

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

22 (f) The Agency shall appear before the Board in any hearing
23 upon a petition for variance, the denial of a permit, or the
24 validity or effect of a rule or regulation of the Board, and
25 shall have the authority to appear before the Board in any
26 hearing under the Act.

1 (g) The Agency shall have the duty to administer, in accord
2 with Title X of this Act, such permit and certification systems
3 as may be established by this Act or by regulations adopted
4 thereunder. The Agency may enter into written delegation
5 agreements with any department, agency, or unit of State or
6 local government under which all or portions of this duty may
7 be delegated for public water supply storage and transport
8 systems, sewage collection and transport systems, air
9 pollution control sources with uncontrolled emissions of 100
10 tons per year or less and application of algicides to waters of
11 the State. Such delegation agreements will require that the
12 work to be performed thereunder will be in accordance with
13 Agency criteria, subject to Agency review, and shall include
14 such financial and program auditing by the Agency as may be
15 required.

16 (h) The Agency shall have authority to require the
17 submission of complete plans and specifications from any
18 applicant for a permit required by this Act or by regulations
19 thereunder, and to require the submission of such reports
20 regarding actual or potential violations of this Act, any rule
21 or regulation adopted under this Act, any permit or term or
22 condition of a permit, or any Board order, as may be necessary
23 for the purposes of this Act.

24 (i) The Agency shall have authority to make recommendations
25 to the Board for the adoption of regulations under Title VII of
26 the Act.

1 (j) The Agency shall have the duty to represent the State
2 of Illinois in any and all matters pertaining to plans,
3 procedures, or negotiations for interstate compacts or other
4 governmental arrangements relating to environmental
5 protection.

6 (k) The Agency shall have the authority to accept, receive,
7 and administer on behalf of the State any grants, gifts, loans,
8 indirect cost reimbursements, or other funds made available to
9 the State from any source for purposes of this Act or for air
10 or water pollution control, public water supply, solid waste
11 disposal, noise abatement, or other environmental protection
12 activities, surveys, or programs. Any federal funds received by
13 the Agency pursuant to this subsection shall be deposited in a
14 trust fund with the State Treasurer and held and disbursed by
15 him in accordance with Treasurer as Custodian of Funds Act,
16 provided that such monies shall be used only for the purposes
17 for which they are contributed and any balance remaining shall
18 be returned to the contributor.

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

22 (l) The Agency is hereby designated as water pollution
23 agency for the state for all purposes of the Federal Water
24 Pollution Control Act, as amended; as implementing agency for
25 the State for all purposes of the Safe Drinking Water Act,
26 Public Law 93-523, as now or hereafter amended, except Section

1 1425 of that Act; as air pollution agency for the state for all
2 purposes of the Clean Air Act of 1970, Public Law 91-604,
3 approved December 31, 1970, as amended; and as solid waste
4 agency for the state for all purposes of the Solid Waste
5 Disposal Act, Public Law 89-272, approved October 20, 1965, and
6 amended by the Resource Recovery Act of 1970, Public Law
7 91-512, approved October 26, 1970, as amended, and amended by
8 the Resource Conservation and Recovery Act of 1976, (P.L.
9 94-580) approved October 21, 1976, as amended; as noise control
10 agency for the state for all purposes of the Noise Control Act
11 of 1972, Public Law 92-574, approved October 27, 1972, as
12 amended; and as implementing agency for the State for all
13 purposes of the Comprehensive Environmental Response,
14 Compensation, and Liability Act of 1980 (P.L. 96-510), as
15 amended; and otherwise as pollution control agency for the
16 State pursuant to federal laws integrated with the foregoing
17 laws, for financing purposes or otherwise. The Agency is hereby
18 authorized to take all action necessary or appropriate to
19 secure to the State the benefits of such federal Acts, provided
20 that the Agency shall transmit to the United States without
21 change any standards adopted by the Pollution Control Board
22 pursuant to Section 5(c) of this Act. This subsection (l) of
23 Section 4 shall not be construed to bar or prohibit the
24 Environmental Protection Trust Fund Commission from accepting,
25 receiving, and administering on behalf of the State any grants,
26 gifts, loans or other funds for which the Commission is

1 eligible pursuant to the Environmental Protection Trust Fund
2 Act. The Agency is hereby designated as the State agency for
3 all purposes of administering the requirements of Section 313
4 of the federal Emergency Planning and Community Right-to-Know
5 Act of 1986.

6 Any municipality, sanitary district, or other political
7 subdivision, or any Agency of the State or interstate Agency,
8 which makes application for loans or grants under such federal
9 Acts shall notify the Agency of such application; the Agency
10 may participate in proceedings under such federal Acts.

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

22 (n) In accordance with the powers conferred upon the Agency
23 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
24 Agency shall have authority to establish and enforce minimum
25 standards for the operation of laboratories relating to
26 analyses and laboratory tests for air pollution, water

1 pollution, noise emissions, contaminant discharges onto land
2 and sanitary, chemical, and mineral quality of water
3 distributed by a public water supply. The Agency may enter into
4 formal working agreements with other departments or agencies of
5 state government under which all or portions of this authority
6 may be delegated to the cooperating department or agency.

7 (o) The Agency shall have the authority to issue
8 certificates of competency to persons and laboratories meeting
9 the minimum standards established by the Agency in accordance
10 with Section 4(n) of this Act and to promulgate and enforce
11 regulations relevant to the issuance and use of such
12 certificates. The Agency may enter into formal working
13 agreements with other departments or agencies of state
14 government under which all or portions of this authority may be
15 delegated to the cooperating department or agency.

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

1 into agreements with the Agency to provide for reduced Agency
2 participation in sample analyses.

3 (q) The Agency shall have the authority to provide notice
4 to any person who may be liable pursuant to Section 22.2(f) of
5 this Act for a release or a substantial threat of a release of
6 a hazardous substance or pesticide. Such notice shall include
7 the identified response action and an opportunity for such
8 person to perform the response action.

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

25 (s) The Agency shall have authority to take whatever
26 preventive or corrective action is necessary or appropriate,

1 including but not limited to expenditure of monies appropriated
2 from the Build Illinois Bond Fund and the Build Illinois
3 Purposes Fund for removal or remedial action, whenever any
4 hazardous substance or pesticide is released or there is a
5 substantial threat of such a release into the environment. The
6 State, the Director, and any State employee shall be
7 indemnified for any damages or injury arising out of or
8 resulting from any action taken under this subsection. The
9 Director of the Agency is authorized to enter into such
10 contracts and agreements as are necessary to carry out the
11 Agency's duties under this subsection.

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

21 (u) Pursuant to the Illinois Administrative Procedure Act,
22 the Agency shall have the authority to adopt such rules as are
23 necessary or appropriate for the Agency to implement Section
24 31.1 of this Act.

25 (v) (Blank.)

26 (w) Neither the State, nor the Director, nor the Board, nor

1 any State employee shall be liable for any damages or injury
2 arising out of or resulting from any action taken under
3 subsection (s).

4 (x)(1) The Agency shall have authority to distribute
5 grants, subject to appropriation by the General Assembly,
6 to units of local government for financing and construction
7 of public water supply facilities. With respect to all
8 monies appropriated from the Build Illinois Bond Fund or
9 the Build Illinois Purposes Fund for public water supply
10 grants, such grants shall be made in accordance with rules
11 promulgated by the Agency. Such rules shall include a
12 requirement for a local match of 30% of the total project
13 cost for projects funded through such grants.

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

1 Procedure Act, for making such determinations. The Agency
2 shall not issue a stop-work order in relation to such
3 grants unless and until the Agency adopts precise and
4 complete standards, pursuant to Section 5-20 of the
5 Illinois Administrative Procedure Act, for determining
6 whether to issue a stop-work order.

7 (y) The Agency shall have authority to release any person
8 from further responsibility for preventive or corrective
9 action under this Act following successful completion of
10 preventive or corrective action undertaken by such person upon
11 written request by the person.

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

23 (aa) The Agency shall create a permit expediting unit for
24 the purpose of implementing an expedited permitting process for
25 air and water construction permits within 6 months after the
26 effective date of this amendatory Act of the 96th General

1 Assembly.

2 (1) Permit applicants may access the expedited
3 permitting process if the permit is necessary to commence a
4 construction or maintenance project that results in an
5 investment by the applicant of at least \$10 million and the
6 applicant pays an expedited permit fee, to be established
7 by the Agency by regulation, but not to exceed 200% of the
8 standard fee for an unexpedited permit. The amount of the
9 fee in excess of a standard permit fee shall be payable
10 only upon final permit issuance. All fees collected by the
11 Agency under this Section shall be deposited into the
12 Expedited Permit Fund, which is hereby created as a special
13 fund in the State treasury.

14 Subject to appropriation, the moneys in the Fund shall
15 be used by the Agency to carry out the Agency's expedited
16 permitting activities.

17 (2) The Agency shall issue an expedited final permit no
18 more than 120 days after the date the Agency has deemed the
19 application to be complete. If for any reason a permit is
20 not issued within 120 days, the permit applicant's
21 expedited permit fee shall be reduced to the standard
22 permit fee.

23 (Source: P.A. 96-37, eff. 7-13-09; 96-503, eff. 8-14-09;
24 96-800, eff. 10-30-09; revised 11-23-09.)

25 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

1 Sec. 39. Issuance of permits; procedures.

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

1 permit application was denied. Such statements shall include,
2 but not be limited to the following:

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

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

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

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

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

1 UIC permit applications under subsection (e) of this Section.

2 The Agency shall publish notice of all final permit
3 determinations for development permits for MSWLF units and for
4 significant permit modifications for lateral expansions for
5 existing MSWLF units one time in a newspaper of general
6 circulation in the county in which the unit is or is proposed
7 to be located.

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

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

1 revise its rules for the existing State air pollution operating
2 permit program consistent with this paragraph and shall adopt
3 rules that require a source to demonstrate that it qualifies
4 for a permit under this paragraph.

5 The Agency shall, within 6 months after the effective date
6 of this amendatory Act of the 96th General Assembly, form and
7 convene a stakeholders group for the purpose of creating a
8 priority list of suitable categories of sources to focus
9 efforts in developing general permits. Upon completion of the
10 priority list, within 12 months, the Agency shall have
11 finalized at least 5 general permits, with an additional 5 to
12 be finalized after 24 months, and another 5 after 36 months.
13 The existence of a general permit for a particular source
14 category shall not preclude an owner or operator of a facility
15 from pursuing a facility-specific permit.

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

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

25 The Agency may issue general NPDES permits for discharges
26 from categories of point sources which are subject to the same

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

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

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

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

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

26 (1) any applicable State or federal statute or

1 regulation; or

2 (2) the characteristics of the permitted discharge.

3 The Agency shall adopt guidance to assist applicants in
4 making such determinations.

5 (c) Except for those facilities owned or operated by
6 sanitary districts organized under the Metropolitan Water
7 Reclamation District Act, no permit for the development or
8 construction of a new pollution control facility may be granted
9 by the Agency unless the applicant submits proof to the Agency
10 that the location of the facility has been approved by the
11 County Board of the county if in an unincorporated area, or the
12 governing body of the municipality when in an incorporated
13 area, in which the facility is to be located in accordance with
14 Section 39.2 of this Act. For purposes of this subsection (c),
15 and for purposes of Section 39.2 of this Act, the appropriate
16 county board or governing body of the municipality shall be the
17 county board of the county or the governing body of the
18 municipality in which the facility is to be located as of the
19 date when the application for siting approval is filed.

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

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

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

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

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

25 Except for those facilities owned or operated by sanitary
26 districts organized under the Metropolitan Water Reclamation

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

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

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

- 23 (1) the municipal waste transfer station was in
24 existence on or before January 1, 1979 and was in
25 continuous operation from January 1, 1979 to January 1,
26 1993;

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

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

10 (4) the site has local zoning approval.

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

15 All RCRA 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 Resource Conservation and Recovery Act of 1976
21 (P.L. 94-580), as amended, and regulations pursuant thereto,
22 and may include schedules for achieving compliance therewith as
23 soon as possible. The Agency shall require that a performance
24 bond or other security be provided as a condition for the
25 issuance of a RCRA permit.

26 In the case of a permit to operate a hazardous waste or PCB

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

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

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

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

25 All UIC permits shall contain those terms and conditions,
26 including but not limited to schedules of compliance, which may

1 be required to accomplish the purposes and provisions of this
2 Act. The Agency may include among such conditions standards and
3 other requirements established under this Act, Board
4 regulations, the Safe Drinking Water Act (P.L. 93-523), as
5 amended, and regulations pursuant thereto, and may include
6 schedules for achieving compliance therewith. The Agency shall
7 require that a performance bond or other security be provided
8 as a condition for the issuance of a UIC permit.

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

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

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

25 (1) The Agency shall have authority to make the
26 determination of any question required to be determined by

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

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

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

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

1 site is located.

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

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

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

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

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

1 any environmental law, regulation, or permit term or
2 condition; or

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

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

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

1 or operation of surface mining facilities.

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

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

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

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

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

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

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

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

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

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

26 (1) the facility includes a setback of at least 200

1 feet from the nearest potable water supply well;

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

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

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

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

26 (6) the operation will be conducted in accordance with

1 any applicable rules adopted by the Board.

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

15 (o) (Blank.)

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

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

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

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

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

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

5 (Source: P.A. 94-272, eff. 7-19-05; 94-725, eff. 6-1-06;
6 95-288, eff. 8-20-07.)

7 (415 ILCS 5/39.6 new)

8 Sec. 39.6. Air permits by rule.

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

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

19 (c) The Agency shall issue permits to the owners or
20 operators of facilities or equipment that satisfy the
21 requirements established by Board rule under this Section, upon
22 notification of the Agency of the owner or operator's intent to
23 construct and operate under a permit established under this
24 Section.

25 (d) The Board shall expedite the rulemakings for permits

1 under this Section.

2 (e) The existence of a permit by rule for a particular
3 class of facility or equipment shall not preclude an owner or
4 operator of a facility or equipment from pursuing an individual
5 permit specifically for that facility or equipment."