



Sen. Chapin Rose

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1 AMENDMENT TO SENATE BILL 1868

2 AMENDMENT NO. _____. Amend Senate Bill 1868 by replacing
3 everything after the enacting clause with the following:

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

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

7 Sec. 39. Issuance of permits; procedures.

8 (a) When the Board has by regulation required a permit for
9 the construction, installation, or operation of any type of
10 facility, equipment, vehicle, vessel, or aircraft, the
11 applicant shall apply to the Agency for such permit and it
12 shall be the duty of the Agency to issue such a permit upon
13 proof by the applicant that the facility, equipment, vehicle,
14 vessel, or aircraft will not cause a violation of this Act or
15 of regulations hereunder. The Agency shall adopt such
16 procedures as are necessary to carry out its duties under this

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

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

21 (ii) the provision of the regulations, promulgated
22 under this Act, which may be violated if the permit were
23 granted;

24 (iii) the specific type of information, if any, which
25 the Agency deems the applicant did not provide the Agency;
26 and

1 (iv) a statement of specific reasons why the Act and
2 the regulations might not be met if the permit were
3 granted.

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

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

24 After January 1, 1994 and until July 1, 1998, operating
25 permits issued under this Section by the Agency for sources of
26 air pollution permitted to emit less than 25 tons per year of

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

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

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

26 All NPDES permits shall contain those terms and conditions,

1 including but not limited to schedules of compliance, which may
2 be required to accomplish the purposes and provisions of this
3 Act.

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

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

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

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

1 hereafter amended, and regulations pursuant thereto.

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

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

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

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

24 In the case of a pollution control facility for which a
25 development permit was issued before November 12, 1981, if an
26 operating permit has not been issued by the Agency prior to

1 August 31, 1989 for any portion of the facility, then the
2 Agency may not issue or renew any development permit nor issue
3 an original operating permit for any portion of such facility
4 unless the applicant has submitted proof to the Agency that the
5 location of the facility has been approved by the appropriate
6 county board or municipal governing body pursuant to Section
7 39.2 of this Act.

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

22 Except for those facilities owned or operated by sanitary
23 districts organized under the Metropolitan Water Reclamation
24 District Act, and except for new pollution control facilities
25 governed by Section 39.2, and except for fossil fuel mining
26 facilities, the granting of a permit under this Act shall not

1 relieve the applicant from meeting and securing all necessary
2 zoning approvals from the unit of government having zoning
3 jurisdiction over the proposed facility.

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

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

20 (1) the municipal waste transfer station was in
21 existence on or before January 1, 1979 and was in
22 continuous operation from January 1, 1979 to January 1,
23 1993;

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

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

7 (4) the site has local zoning approval.

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

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

23 In the case of a permit to operate a hazardous waste or PCB
24 incinerator as defined in subsection (k) of Section 44, the
25 Agency shall require, as a condition of the permit, that the
26 operator of the facility perform such analyses of the waste to

1 be incinerated as may be necessary and appropriate to ensure
2 the safe operation of the incinerator.

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

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

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

22 All UIC permits shall contain those terms and conditions,
23 including but not limited to schedules of compliance, which may
24 be required to accomplish the purposes and provisions of this
25 Act. The Agency may include among such conditions standards and
26 other requirements established under this Act, Board

1 regulations, the Safe Drinking Water Act (P.L. 93-523), as
2 amended, and regulations pursuant thereto, and may include
3 schedules for achieving compliance therewith. The Agency shall
4 require that a performance bond or other security be provided
5 as a condition for the issuance of a UIC permit.

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

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

20 (f) In making any determination pursuant to Section 9.1 of
21 this Act:

22 (1) The Agency shall have authority to make the
23 determination of any question required to be determined by
24 the Clean Air Act, as now or hereafter amended, this Act,
25 or the regulations of the Board, including the
26 determination of the Lowest Achievable Emission Rate,

1 Maximum Achievable Control Technology, or Best Available
2 Control Technology, consistent with the Board's
3 regulations, if any.

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

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

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

25 (h) A hazardous waste stream may not be deposited in a
26 permitted hazardous waste site unless specific authorization

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

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

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

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

26 (3) proof of gross carelessness or incompetence in

1 handling, storing, processing, transporting or disposing
2 of waste or clean construction or demolition debris, or
3 proof of gross carelessness or incompetence in using clean
4 construction or demolition debris as fill.

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

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

25 (k) A development permit issued under subsection (a) of
26 Section 39 for any facility or site which is required to have a

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

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

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

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

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

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

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

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

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

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

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

25 (2) the facility is located outside the boundary of the
26 10-year floodplain or the site will be floodproofed;

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

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

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

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

25 The Agency shall issue renewable permits of not longer than
26 10 years in duration for the composting of landscape wastes, as

1 defined in Section 3.155 of this Act, based on the above
2 requirements.

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

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

12 (o) (Blank.)

13 (o-1) Notwithstanding any provisions of this Act to the
14 contrary, the Agency shall not grant a permit for a new
15 pollution control facility over an aquifer that is the
16 principal source of potable water for 50 or more municipalities
17 that are located outside of the county where the proposed
18 facility will be located unless the Board determines, based
19 upon evidence presented at a public hearing conducted by the
20 Board in accordance with this Section, that the operation of
21 the facility at that location will not pose an unreasonable
22 threat of contamination to that aquifer.

23 For purposes of determining the applicability of this
24 subsection (o-1), the Agency, upon receipt of an application
25 for a permit for the establishment of a new pollution control
26 facility shall make a determination, based upon a review of

1 technical and scientific information maintained by the
2 Illinois Water Inventory Program of the Illinois State Water
3 Survey's Center for Groundwater Science and by the Illinois
4 State Geological Survey, as to whether the proposed facility
5 would be located over an aquifer that provides a principal
6 source of water for 50 or more municipalities located outside
7 of the county where the facility will be located.

8 An aquifer shall be deemed to provide a principal source of
9 potable water for a municipality for purposes of this
10 subsection (o-1) if the municipality is served by a community
11 water supply, and that community water supply has, during the
12 12-month period immediately preceding the date of
13 determination, obtained 50% or more of its potable water from
14 that aquifer.

15 In addition to any facilities that meet the definition of a
16 "new pollution control facility" as defined elsewhere in this
17 Act, for the purposes of this subsection (o-1), a "new
18 pollution control facility" shall also include any existing
19 pollution control facility that is the proposed location,
20 pursuant to a pending application to the USEPA, for the
21 disposal of Polychlorinated Biphenyls (PCBs) or PCB items at
22 concentrations regulated by the Toxic Substances Control Act,
23 pursuant to Subpart D of 40 C.F.R. 761.

24 If the Agency determines that the proposed new pollution
25 control facility is over an aquifer that provides a principal
26 source of potable water for one or more municipalities located

1 outside of the county where the facility is located, the Agency
2 shall (i) identify from records maintained by the Illinois
3 State Water Survey each municipality that is located outside of
4 the County that is provided a principal source of water from
5 the aquifer in question, (ii) schedule a public hearing before
6 the Board for the purpose of considering evidence on the issue
7 of whether the operation of the facility will pose an
8 unreasonable risk of contamination to the aquifer in question,
9 and (iii) provide written notice of the time and date of the
10 public hearing before the Board to the permit applicant and the
11 mayor, village board president, or other chief executive
12 officer of each municipality that has been identified as being
13 served by a community water supply relying on the aquifer as a
14 principal source of potable water.

15 The hearing required under this subsection (o-1) shall
16 be scheduled at least 90 days after the applicant and any
17 interested parties have received notice of the hearing by
18 certified mail, and no more than 120 days after receipt by the
19 Agency of the application for the permit. At the conclusion of
20 the hearing, the Board shall decide whether the proposed
21 facility poses an unreasonable risk of contamination of the
22 aquifer in question. In making that determination, the Board
23 shall consider the following:

24 (1) whether the aquifer in question is protected from
25 contamination caused by any leaks of substances disposed of
26 at the facility by a continuous formation of not less than

1 50 feet of bedrock between the bottom of the facility and
2 the aquifer;

3 (2) whether the aquifer is separated vertically from
4 the bottom of the proposed facility by at least 300 feet;

5 (3) whether the municipality or municipalities that
6 rely on the aquifer as a principal source of potable water
7 have an available, alternative ground or surface water
8 source for potable water that can be economically utilized
9 to replace water from the aquifer if it becomes
10 contaminated; and

11 (4) whether materials that may be disposed of at the
12 waste facility include any hazardous waste or special waste
13 and, if so, (A) whether the applicant has demonstrated that
14 there is an economically feasible means of
15 de-contaminating the aquifer if it becomes contaminated by
16 substances originating in such hazardous or special waste
17 that has been disposed of at the facility; (B) whether the
18 applicant has identified a secure source of funds that
19 would be perpetually available and adequate to cover the
20 costs for removing contamination originating from the
21 facility from the aquifer; and (C) the length of time that
22 any toxic or hazardous substances contained in any
23 hazardous or special waste disposed of at the facility can
24 be expected to persist in a chemical state and in
25 concentrations that will pose a threat to human health if
26 ingested.

1 The Board's decision shall be in writing, and shall be
2 supported by written findings of fact as to each of the
3 criteria to be considered.

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

22 When a permit applicant submits information to the Agency
23 to supplement a permit application being reviewed by the
24 Agency, the applicant shall not be required to reissue the
25 notice under this subsection.

26 (2) The Agency shall accept written comments concerning the

1 permit application that are postmarked no later than 30 days
2 after the filing of the permit application, unless the time
3 period to accept comments is extended by the Agency.

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

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

26 (1) Checklists and guidance relating to the completion

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

7 (2) Within 2 years after the effective date of this
8 amendatory Act of the 97th General Assembly, permit
9 application forms or portions of permit applications that
10 can be completed and saved electronically, and submitted to
11 the Agency electronically with digital signatures.

12 (3) Within 2 years after the effective date of this
13 amendatory Act of the 97th General Assembly, an online
14 tracking system where an applicant may review the status of
15 its pending application, including the name and contact
16 information of the permit analyst assigned to the
17 application. Until the online tracking system has been
18 developed, the Agency shall post on its website semi-annual
19 permitting efficiency tracking reports that include
20 statistics on the timeframes for Agency action on the
21 following types of permits received after the effective
22 date of this amendatory Act of the 97th General Assembly:
23 air construction permits, new NPDES permits and associated
24 water construction permits, and modifications of major
25 NPDES permits and associated water construction permits.
26 The reports must be posted by February 1 and August 1 each

1 year and shall include:

2 (A) the number of applications received for each
3 type of permit, the number of applications on which the
4 Agency has taken action, and the number of applications
5 still pending; and

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

22 (r) Upon the request of the applicant, the Agency shall
23 notify the applicant of the permit analyst assigned to the
24 application upon its receipt.

25 (s) The Agency is authorized to prepare and distribute
26 guidance documents relating to its administration of this

1 Section and procedural rules implementing this Section.
2 Guidance documents prepared under this subsection shall not be
3 considered rules and shall not be subject to the Illinois
4 Administrative Procedure Act. Such guidance shall not be
5 binding on any party.

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

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

17 (v) If requested by the permit applicant, the Agency shall
18 provide the permit applicant with a copy of the final permit
19 prior to its issuance.

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

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."