

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 39 and by adding Section 39.16 as follows:

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

7 (Text of Section before amendment by P.A. 104-458)

8 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

24 If there is no final action by the Agency within 90 days
25 after the filing of the application for permit, the applicant
26 may deem the permit issued; except that this time period shall

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

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

20 After January 1, 1994 and until July 1, 1998, operating
21 permits issued under this Section by the Agency for sources of
22 air pollution permitted to emit less than 25 tons per year of
23 any combination of regulated air pollutants, as defined in
24 Section 39.5 of this Act, shall be required to be renewed only
25 upon written request by the Agency consistent with applicable
26 provisions of this Act and regulations promulgated hereunder.

1 Such operating permits shall expire 180 days after the date of
2 such a request. The Board shall revise its regulations for the
3 existing State air pollution operating permit program
4 consistent with this provision by January 1, 1994.

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

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

22 All NPDES permits shall contain those terms and
23 conditions, including, but not limited to, schedules of
24 compliance, which may be required to accomplish the purposes
25 and provisions of this Act. All NPDES Permits authorizing a
26 discharge from a facility designated by the Agency and the

1 USEPA as a major facility shall require, at a minimum, for
2 publicly owned treatment works, as well as for privately owned
3 sewage treatment works, periodic sampling of influent,
4 effluent, and biosolids for all perfluoroalkyl and
5 polyfluoroalkyl substances for which there are accredited
6 wastewater analytical methods, and, for all other major
7 industrial facilities, periodic effluent sampling for all
8 perfluoroalkyl and polyfluoroalkyl substances for which there
9 are accredited wastewater analytical methods. If a permittee
10 demonstrates through monitoring data that perfluoroalkyl and
11 polyfluoroalkyl substances have not been detected above the
12 minimum level of quantification for a period of 2 consecutive
13 years, the permittee may request a modification of the NPDES
14 permit. If the Agency makes a determination that such a
15 request is acceptable, then the NPDES permit may be modified
16 to reduce sample frequency.

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

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

1 and schedules for achieving compliance therewith at the
2 earliest reasonable date.

3 The Agency shall adopt filing requirements and procedures
4 which are necessary and appropriate for the issuance of NPDES
5 permits, and which are consistent with the Act or regulations
6 adopted by the Board, and with the Federal Water Pollution
7 Control Act, as now or hereafter amended, and regulations
8 pursuant thereto. The Agency shall require any NPDES permit
9 application for a discharge of wastewater that has potential
10 to contain perfluoroalkyl and polyfluoroalkyl substances to
11 fully characterize the discharge through sample results for
12 all perfluoroalkyl and polyfluoroalkyl substances for which
13 there are accredited wastewater analytical methods.

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

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

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

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

26 Beginning August 20, 1993, if the pollution control

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

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

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

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

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

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

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

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

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

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

1 (4) the site has local zoning approval.

2 (d) The Agency may issue RCRA permits exclusively under
3 this subsection to persons owning or operating a facility for
4 the treatment, storage, or disposal of hazardous waste as
5 defined under this Act. Subsection (y) of this Section, rather
6 than this subsection (d), shall apply to permits issued for
7 CCR surface impoundments.

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) The Agency shall adopt requirements as necessary

1 to implement public participation procedures, including,
2 but not limited to, public notice, comment, and an
3 opportunity for hearing, which must accompany the
4 processing of applications for PSD permits. The Agency
5 shall briefly describe and respond to all significant
6 comments on the draft permit raised during the public
7 comment period or during any hearing. The Agency may group
8 related comments together and provide one unified response
9 for each issue raised.

10 (3) Any complete permit application submitted to the
11 Agency under this subsection for a PSD permit shall be
12 granted or denied by the Agency not later than one year
13 after the filing of such completed application.

14 (4) The Agency shall, after conferring with the
15 applicant, give written notice to the applicant of its
16 proposed decision on the application, including the terms
17 and conditions of the permit to be issued and the facts,
18 conduct, or other basis upon which the Agency will rely to
19 support its proposed action.

20 (g) The Agency shall include as conditions upon all
21 permits issued for hazardous waste disposal sites such
22 restrictions upon the future use of such sites as are
23 reasonably necessary to protect public health and the
24 environment, including permanent prohibition of the use of
25 such sites for purposes which may create an unreasonable risk
26 of injury to human health or to the environment. After

1 administrative and judicial challenges to such restrictions
2 have been exhausted, the Agency shall file such restrictions
3 of record in the Office of the Recorder of the county in which
4 the hazardous waste disposal site is located.

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

1 disposal, in which case the last person who treats,
2 incinerates, or partially recycles the hazardous waste prior
3 to disposal is the generator; or (2) the hazardous waste is
4 from a response action, in which case the person performing
5 the response action is the generator. This subsection (h) does
6 not apply to any hazardous waste that is restricted from land
7 disposal under 35 Ill. Adm. Code 728.

8 (i) Before issuing any RCRA permit, any permit for a waste
9 storage site, sanitary landfill, waste disposal site, waste
10 transfer station, waste treatment facility, waste incinerator,
11 or any waste-transportation operation, any permit or interim
12 authorization for a clean construction or demolition debris
13 fill operation, or any permit required under subsection (d-5)
14 of Section 55, the Agency shall conduct an evaluation of the
15 prospective owner's or operator's prior experience in waste
16 management operations, clean construction or demolition debris
17 fill operations, and tire storage site management. The Agency
18 may deny such a permit, or deny or revoke interim
19 authorization, if the prospective owner or operator or any
20 employee or officer of the prospective owner or operator has a
21 history of:

22 (1) repeated violations of federal, State, or local
23 laws, regulations, standards, or ordinances in the
24 operation of waste management facilities or sites, clean
25 construction or demolition debris fill operation
26 facilities or sites, or tire storage sites; or

1 (2) conviction in this or another State of any crime
2 which is a felony under the laws of this State, or
3 conviction of a felony in a federal court; or conviction
4 in this or another state or federal court of any of the
5 following crimes: forgery, official misconduct, bribery,
6 perjury, or knowingly submitting false information under
7 any environmental law, regulation, or permit term or
8 condition; or

9 (3) proof of gross carelessness or incompetence in
10 handling, storing, processing, transporting, or disposing
11 of waste, clean construction or demolition debris, or used
12 or waste tires, or proof of gross carelessness or
13 incompetence in using clean construction or demolition
14 debris as fill.

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

1 activities at the site may have caused or allowed
2 contamination at the site, unless such contamination is
3 authorized under any permit issued by the Agency.

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

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

21 (l) No permit shall be issued by the Agency under this Act
22 for construction or operation of any facility or site located
23 within the boundaries of any setback zone established pursuant
24 to this Act, where such construction or operation is
25 prohibited.

26 (m) The Agency may issue permits to persons owning or

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

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

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

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

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

23 If no final action is taken by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued. Any applicant for a permit may
26 waive the 90-day limitation by filing a written statement with

1 the Agency.

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

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

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

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

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

25 (5) the operation of the facility will include
26 appropriate dust and odor control measures, limitations on

1 operating hours, appropriate noise control measures for
2 shredding, chipping and similar equipment, management
3 procedures for composting, containment and disposal of
4 non-compostable wastes, procedures to be used for
5 terminating operations at the site, and recordkeeping
6 sufficient to document the amount of materials received,
7 composted, and otherwise disposed of; and

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

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

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

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

23 (o) (Blank).

24 (p) (1) Any person submitting an application for a permit
25 for a new MSWLF unit or for a lateral expansion under
26 subsection (t) of Section 21 of this Act for an existing MSWLF

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

16 When a permit applicant submits information to the Agency
17 to supplement a permit application being reviewed by the
18 Agency, the applicant shall not be required to reissue the
19 notice under this subsection.

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

24 (3) Each applicant for a permit described in part (1) of
25 this subsection shall file a copy of the permit application
26 with the county board or governing body of the municipality in

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

13 (q) Within 6 months after July 12, 2011 (the effective
14 date of Public Act 97-95), the Agency, in consultation with
15 the regulated community, shall develop a web portal to be
16 posted on its website for the purpose of enhancing review and
17 promoting timely issuance of permits required by this Act. At
18 a minimum, the Agency shall make the following information
19 available on the web portal:

20 (1) Checklists and guidance relating to the completion
21 of permit applications, developed pursuant to subsection
22 (s) of this Section, which may include, but are not
23 limited to, existing instructions for completing the
24 applications and examples of complete applications. As the
25 Agency develops new checklists and develops guidance, it
26 shall supplement the web portal with those materials.

1 (2) Within 2 years after July 12, 2011 (the effective
2 date of Public Act 97-95), permit application forms or
3 portions of permit applications that can be completed and
4 saved electronically, and submitted to the Agency
5 electronically with digital signatures.

6 (3) Within 2 years after July 12, 2011 (the effective
7 date of Public Act 97-95), an online tracking system where
8 an applicant may review the status of its pending
9 application, including the name and contact information of
10 the permit analyst assigned to the application. Until the
11 online tracking system has been developed, the Agency
12 shall post on its website semi-annual permitting
13 efficiency tracking reports that include statistics on the
14 timeframes for Agency action on the following types of
15 permits received after July 12, 2011 (the effective date
16 of Public Act 97-95): air construction permits, new NPDES
17 permits and associated water construction permits, and
18 modifications of major NPDES permits and associated water
19 construction permits. The reports must be posted by
20 February 1 and August 1 each year and shall include:

21 (A) the number of applications received for each
22 type of permit, the number of applications on which
23 the Agency has taken action, and the number of
24 applications still pending; and

25 (B) for those applications where the Agency has
26 not taken action in accordance with the timeframes set

1 forth in this Act, the date the application was
2 received and the reasons for any delays, which may
3 include, but shall not be limited to, (i) the
4 application being inadequate or incomplete, (ii)
5 scientific or technical disagreements with the
6 applicant, USEPA, or other local, state, or federal
7 agencies involved in the permitting approval process,
8 (iii) public opposition to the permit, or (iv) Agency
9 staffing shortages. To the extent practicable, the
10 tracking report shall provide approximate dates when
11 cause for delay was identified by the Agency, when the
12 Agency informed the applicant of the problem leading
13 to the delay, and when the applicant remedied the
14 reason for the delay.

15 (r) Upon the request of the applicant, the Agency shall
16 notify the applicant of the permit analyst assigned to the
17 application upon its receipt.

18 (s) The Agency is authorized to prepare and distribute
19 guidance documents relating to its administration of this
20 Section and procedural rules implementing this Section.
21 Guidance documents prepared under this subsection shall not be
22 considered rules and shall not be subject to the Illinois
23 Administrative Procedure Act. Such guidance shall not be
24 binding on any party.

25 (t) Except as otherwise prohibited by federal law or
26 regulation, any person submitting an application for a permit

1 may include with the application suggested permit language for
2 Agency consideration. The Agency is not obligated to use the
3 suggested language or any portion thereof in its permitting
4 decision. If requested by the permit applicant, the Agency
5 shall meet with the applicant to discuss the suggested
6 language.

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

10 (v) If requested by the permit applicant, the Agency shall
11 provide the permit applicant with a copy of the final permit
12 prior to its issuance.

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

16 (x) If, before the expiration of a State operating permit
17 that is issued pursuant to subsection (a) of this Section and
18 contains federally enforceable conditions limiting the
19 potential to emit of the source to a level below the major
20 source threshold for that source so as to exclude the source
21 from the Clean Air Act Permit Program, the Agency receives a
22 complete application for the renewal of that permit, then all
23 of the terms and conditions of the permit shall remain in
24 effect until final administrative action has been taken on the
25 application for the renewal of the permit.

26 (y) The Agency may issue permits exclusively under this

1 subsection to persons owning or operating a CCR surface
2 impoundment subject to Section 22.59.

3 (z) If a mass animal mortality event is declared by the
4 Department of Agriculture in accordance with the Animal
5 Mortality Act:

6 (1) the owner or operator responsible for the disposal
7 of dead animals is exempted from the following:

8 (i) obtaining a permit for the construction,
9 installation, or operation of any type of facility or
10 equipment issued in accordance with subsection (a) of
11 this Section;

12 (ii) obtaining a permit for open burning in
13 accordance with the rules adopted by the Board; and

14 (iii) registering the disposal of dead animals as
15 an eligible small source with the Agency in accordance
16 with Section 9.14 of this Act;

17 (2) as applicable, the owner or operator responsible
18 for the disposal of dead animals is required to obtain the
19 following permits:

20 (i) an NPDES permit in accordance with subsection
21 (b) of this Section;

22 (ii) a PSD permit or an NA NSR permit in accordance
23 with Section 9.1 of this Act;

24 (iii) a lifetime State operating permit or a
25 federally enforceable State operating permit, in
26 accordance with subsection (a) of this Section; or

1 (iv) a CAAPP permit, in accordance with Section
2 39.5 of this Act.

3 All CCR surface impoundment permits shall contain those
4 terms and conditions, including, but not limited to, schedules
5 of compliance, which may be required to accomplish the
6 purposes and provisions of this Act, Board regulations, the
7 Illinois Groundwater Protection Act and regulations pursuant
8 thereto, and the Resource Conservation and Recovery Act and
9 regulations pursuant thereto, and may include schedules for
10 achieving compliance therewith as soon as possible.

11 The Board shall adopt filing requirements and procedures
12 that are necessary and appropriate for the issuance of CCR
13 surface impoundment permits and that are consistent with this
14 Act or regulations adopted by the Board, and with the RCRA, as
15 amended, and regulations pursuant thereto.

16 The applicant shall make available to the public for
17 inspection all documents submitted by the applicant to the
18 Agency in furtherance of an application, with the exception of
19 trade secrets, on its public internet website as well as at the
20 office of the county board or governing body of the
21 municipality where CCR from the CCR surface impoundment will
22 be permanently disposed. Such documents may be copied upon
23 payment of the actual cost of reproduction during regular
24 business hours of the local office.

25 The Agency shall issue a written statement concurrent with
26 its grant or denial of the permit explaining the basis for its

1 decision.

2 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
3 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

4 (Text of Section after amendment by P.A. 104-458)

5 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

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

1 MSWLF unit required to issue public notice under subsection
2 (p) of Section 39. The 90-day and 180-day time periods for the
3 Agency to take final action do not apply to NPDES permit
4 applications under subsection (b) of this Section, to RCRA
5 permit applications under subsection (d) of this Section, to
6 UIC permit applications under subsection (e) of this Section,
7 or to CCR surface impoundment applications under subsection
8 (y) of this Section.

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

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

26 After June 30, 1998, operating permits issued under this

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

12 Each air pollution construction permit for diesel powered
13 backup generators to a source that is a data center, as defined
14 in subsection (c) of Section 605-1025 of the Department of
15 Commerce and Economic Opportunity Law of the Civil
16 Administrative Code of Illinois, that is applied for 6 months
17 after the effective date of this amendatory Act of the 104th
18 General Assembly and that is required to have a federally
19 enforceable State operating permit or a Clean Air Act Permit
20 Program permit shall, in addition to any other applicable
21 requirements, require each backup generator to: (i) meet
22 standards at least as protective as Tier 4 standards for
23 non-road diesel engines set out by the United States
24 Environmental Protection Agency in 40 CFR 1039, as it exists
25 on the effective date of this amendatory Act of the 104th
26 General Assembly, and (ii) operate solely as an emergency or

1 standby unit in accordance with 35 Ill. Adm. Code 211.1920, as
2 it exists on the effective date of this amendatory Act of the
3 104th General Assembly. If a diesel powered backup generator
4 becomes out of compliance with the Tier 4 standards for
5 non-road compression-ignition engines during a power outage,
6 the backup generator may (1) continue to operate for up to 24
7 sequential hours after becoming noncompliant with the Tier 4
8 standards or (2) operate when compliance is achieved.
9 Notwithstanding any provision of law to the contrary,
10 operation of the backup generator for up to 24 sequential
11 hours after becoming noncompliant with the Tier 4 standards
12 shall not be considered a violation of the permit.

13 Each air pollution construction permit for natural gas
14 powered backup generators for a source that is a data center,
15 as defined in subsection (c) of Section 605-1025 of the
16 Department of Commerce and Economic Opportunity Law of the
17 Civil Administrative Code of Illinois, that is applied for 6
18 months after the effective date of this amendatory Act of the
19 104th General Assembly and that is required to have a
20 federally enforceable State operating permit or a Clean Air
21 Act Permit Program permit shall, in addition to any other
22 applicable requirements, require each backup generator to: (i)
23 meet standards at least as protective as Tier 2 standards for
24 non-road large spark-ignition engines set out by the United
25 States Environmental Protection Agency in 40 CFR 1048, as it
26 exists on the effective date of this amendatory Act of the

1 104th General Assembly, and (ii) operate solely as an
2 emergency or standby unit in accordance with 35 Ill. Adm. Code
3 211.1920, as it exists on the effective date of this
4 amendatory Act of the 104th General Assembly. If a natural gas
5 powered backup generator becomes out of compliance with the
6 Tier 2 standards for non-road large spark-ignition engines
7 during a power outage, the backup generator may (1) continue
8 to operate for up to 24 sequential hours after becoming
9 noncompliant with the Tier 2 standards or (2) operate when
10 compliance is achieved. Notwithstanding any provision of law
11 to the contrary, operation of the backup generator for up to 24
12 sequential hours after becoming noncompliant with the Tier 2
13 standards shall not be considered a violation of the permit.

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

19 All NPDES permits shall contain those terms and
20 conditions, including, but not limited to, schedules of
21 compliance, which may be required to accomplish the purposes
22 and provisions of this Act. All NPDES Permits authorizing a
23 discharge from a facility designated by the Agency and the
24 USEPA as a major facility shall require, at a minimum, for
25 publicly owned treatment works, as well as for privately owned
26 sewage treatment works, periodic sampling of influent,

1 effluent, and biosolids for all perfluoroalkyl and
2 polyfluoroalkyl substances for which there are accredited
3 wastewater analytical methods, and, for all other major
4 industrial facilities, periodic effluent sampling for all
5 perfluoroalkyl and polyfluoroalkyl substances for which there
6 are accredited wastewater analytical methods. If a permittee
7 demonstrates through monitoring data that perfluoroalkyl and
8 polyfluoroalkyl substances have not been detected above the
9 minimum level of quantification for a period of 2 consecutive
10 years, the permittee may request a modification of the NPDES
11 permit. If the Agency makes a determination that such a
12 request is acceptable, then the NPDES permit may be modified
13 to reduce sample frequency.

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

20 The Agency may include, among such conditions, effluent
21 limitations and other requirements established under this Act,
22 Board regulations, the Federal Water Pollution Control Act, as
23 now or hereafter amended, and regulations pursuant thereto,
24 and schedules for achieving compliance therewith at the
25 earliest reasonable date.

26 The Agency shall adopt filing requirements and procedures

1 which are necessary and appropriate for the issuance of NPDES
2 permits, and which are consistent with the Act or regulations
3 adopted by the Board, and with the Federal Water Pollution
4 Control Act, as now or hereafter amended, and regulations
5 pursuant thereto. The Agency shall require any NPDES permit
6 application for a discharge of wastewater that has potential
7 to contain perfluoroalkyl and polyfluoroalkyl substances to
8 fully characterize the discharge through sample results for
9 all perfluoroalkyl and polyfluoroalkyl substances for which
10 there are accredited wastewater analytical methods.

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

17 (c) Except for those facilities owned or operated by
18 sanitary districts organized under the Metropolitan Water
19 Reclamation District Act, no permit for the development or
20 construction of a new pollution control facility may be
21 granted by the Agency unless the applicant submits proof to
22 the Agency that the location of the facility has been approved
23 by the county board of the county if in an unincorporated area,
24 or the governing body of the municipality when in an
25 incorporated area, in which the facility is to be located in
26 accordance with Section 39.2 of this Act. For purposes of this

1 subsection (c), and for purposes of Section 39.2 of this Act,
2 the appropriate county board or governing body of the
3 municipality shall be the county board of the county or the
4 governing body of the municipality in which the facility is to
5 be located as of the date when the application for siting
6 approval is filed.

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

23 Beginning August 20, 1993, if the pollution control
24 facility consists of a hazardous or solid waste disposal
25 facility for which the proposed site is located in an
26 unincorporated area of a county with a population of less than

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

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

24 After January 1, 1994, if a solid waste disposal facility,
25 any portion for which an operating permit has been issued by
26 the Agency, has not accepted waste disposal for 5 or more

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

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

20 Before beginning construction on any new sewage treatment
21 plant or sludge drying site to be owned or operated by a
22 sanitary district organized under the Metropolitan Water
23 Reclamation District Act for which a new permit (rather than
24 the renewal or amendment of an existing permit) is required,
25 such sanitary district shall hold a public hearing within the
26 municipality within which the proposed facility is to be

1 located, or within the nearest community if the proposed
2 facility is to be located within an unincorporated area, at
3 which information concerning the proposed facility shall be
4 made available to the public, and members of the public shall
5 be given the opportunity to express their views concerning the
6 proposed facility.

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

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

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

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

24 (4) the site has local zoning approval.

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

1 the treatment, storage, or disposal of hazardous waste as
2 defined under this Act. Subsection (y) of this Section, rather
3 than this subsection (d), shall apply to permits issued for
4 CCR surface impoundments.

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

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

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

1 regulations pursuant thereto.

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

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

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

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

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

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

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

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

23 (2) The Agency shall adopt requirements as necessary
24 to implement public participation procedures, including,
25 but not limited to, public notice, comment, and an
26 opportunity for hearing, which must accompany the

1 processing of applications for PSD permits. The Agency
2 shall briefly describe and respond to all significant
3 comments on the draft permit raised during the public
4 comment period or during any hearing. The Agency may group
5 related comments together and provide one unified response
6 for each issue raised.

7 (3) Any complete permit application submitted to the
8 Agency under this subsection for a PSD permit shall be
9 granted or denied by the Agency not later than one year
10 after the filing of such completed application.

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

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

1 the hazardous waste disposal 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
20 Section 40 of this Act. For purposes of this subsection (h),
21 the term "generator" has the meaning given in Section 3.205 of
22 this Act, unless: (1) the hazardous waste is treated,
23 incinerated, or partially recycled for reuse prior to
24 disposal, in which case the last person who treats,
25 incinerates, or partially recycles the hazardous waste prior
26 to disposal is the generator; or (2) the hazardous waste is

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

5 (i) Before issuing any RCRA permit, any permit for a waste
6 storage site, sanitary landfill, waste disposal site, waste
7 transfer station, waste treatment facility, waste incinerator,
8 or any waste-transportation operation, any permit or interim
9 authorization for a clean construction or demolition debris
10 fill operation, or any permit required under subsection (d-5)
11 of Section 55, the Agency shall conduct an evaluation of the
12 prospective owner's or operator's prior experience in waste
13 management operations, clean construction or demolition debris
14 fill operations, and tire storage site management. The Agency
15 may deny such a permit, or deny or revoke interim
16 authorization, if the prospective owner or operator or any
17 employee or officer of the prospective owner or operator has a
18 history of:

19 (1) repeated violations of federal, State, or local
20 laws, regulations, standards, or ordinances in the
21 operation of waste management facilities or sites, clean
22 construction or demolition debris fill operation
23 facilities or sites, or tire storage sites; or

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

1 in this or another state or federal court of any of the
2 following crimes: forgery, official misconduct, bribery,
3 perjury, or knowingly submitting false information under
4 any environmental law, regulation, or permit term or
5 condition; or

6 (3) proof of gross carelessness or incompetence in
7 handling, storing, processing, transporting, or disposing
8 of waste, clean construction or demolition debris, or used
9 or waste tires, or proof of gross carelessness or
10 incompetence in using clean construction or demolition
11 debris as fill.

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

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

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

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

23 (m) The Agency may issue permits to persons owning or
24 operating a facility for composting landscape waste. In
25 granting such permits, the Agency may impose such conditions
26 as may be necessary to accomplish the purposes of this Act, and

1 as are not inconsistent with applicable regulations
2 promulgated by the Board. Except as otherwise provided in this
3 Act, a bond or other security shall not be required as a
4 condition for the issuance of a permit. If the Agency denies
5 any permit pursuant to this subsection, the Agency shall
6 transmit to the applicant within the time limitations of this
7 subsection specific, detailed statements as to the reasons the
8 permit application was denied. Such statements shall include
9 but not be limited to the following:

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

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

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

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

20 If no final action is taken by the Agency within 90 days
21 after the filing of the application for permit, the applicant
22 may deem the permit issued. Any applicant for a permit may
23 waive the 90-day limitation by filing a written statement with
24 the Agency.

25 The Agency shall issue permits for such facilities upon
26 receipt of an application that includes a legal description of

1 the site, a topographic map of the site drawn to the scale of
2 200 feet to the inch or larger, a description of the operation,
3 including the area served, an estimate of the volume of
4 materials to be processed, and documentation that:

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

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

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

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

22 (5) the operation of the facility will include
23 appropriate dust and odor control measures, limitations on
24 operating hours, appropriate noise control measures for
25 shredding, chipping and similar equipment, management
26 procedures for composting, containment and disposal of

1 non-compostable wastes, procedures to be used for
2 terminating operations at the site, and recordkeeping
3 sufficient to document the amount of materials received,
4 composted, and otherwise disposed of; and

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

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

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

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

20 (o) (Blank).

21 (p) (1) Any person submitting an application for a permit
22 for a new MSWLF unit or for a lateral expansion under
23 subsection (t) of Section 21 of this Act for an existing MSWLF
24 unit that has not received and is not subject to local siting
25 approval under Section 39.2 of this Act shall publish notice
26 of the application in a newspaper of general circulation in

1 the county in which the MSWLF unit is or is proposed to be
2 located. The notice must be published at least 15 days before
3 submission of the permit application to the Agency. The notice
4 shall state the name and address of the applicant, the
5 location of the MSWLF unit or proposed MSWLF unit, the nature
6 and size of the MSWLF unit or proposed MSWLF unit, the nature
7 of the activity proposed, the probable life of the proposed
8 activity, the date the permit application will be submitted,
9 and a statement that persons may file written comments with
10 the Agency concerning the permit application within 30 days
11 after the filing of the permit application unless the time
12 period to submit comments is extended by the Agency.

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

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

21 (3) Each applicant for a permit described in part (1) of
22 this subsection shall file a copy of the permit application
23 with the county board or governing body of the municipality in
24 which the MSWLF unit is or is proposed to be located at the
25 same time the application is submitted to the Agency. The
26 permit application filed with the county board or governing

1 body of the municipality shall include all documents submitted
2 to or to be submitted to the Agency, except trade secrets as
3 determined under Section 7.1 of this Act. The permit
4 application and other documents on file with the county board
5 or governing body of the municipality shall be made available
6 for public inspection during regular business hours at the
7 office of the county board or the governing body of the
8 municipality and may be copied upon payment of the actual cost
9 of reproduction.

10 (q) Within 6 months after July 12, 2011 (the effective
11 date of Public Act 97-95), the Agency, in consultation with
12 the regulated community, shall develop a web portal to be
13 posted on its website for the purpose of enhancing review and
14 promoting timely issuance of permits required by this Act. At
15 a minimum, the Agency shall make the following information
16 available on the web portal:

17 (1) Checklists and guidance relating to the completion
18 of permit applications, developed pursuant to subsection
19 (s) of this Section, which may include, but are not
20 limited to, existing instructions for completing the
21 applications and examples of complete applications. As the
22 Agency develops new checklists and develops guidance, it
23 shall supplement the web portal with those materials.

24 (2) Within 2 years after July 12, 2011 (the effective
25 date of Public Act 97-95), permit application forms or
26 portions of permit applications that can be completed and

1 saved electronically, and submitted to the Agency
2 electronically with digital signatures.

3 (3) Within 2 years after July 12, 2011 (the effective
4 date of Public Act 97-95), an online tracking system where
5 an applicant may review the status of its pending
6 application, including the name and contact information of
7 the permit analyst assigned to the application. Until the
8 online tracking system has been developed, the Agency
9 shall post on its website semi-annual permitting
10 efficiency tracking reports that include statistics on the
11 timeframes for Agency action on the following types of
12 permits received after July 12, 2011 (the effective date
13 of Public Act 97-95): air construction permits, new NPDES
14 permits and associated water construction permits, and
15 modifications of major NPDES permits and associated water
16 construction permits. The reports must be posted by
17 February 1 and August 1 each year and shall include:

18 (A) the number of applications received for each
19 type of permit, the number of applications on which
20 the Agency has taken action, and the number of
21 applications still pending; and

22 (B) for those applications where the Agency has
23 not taken action in accordance with the timeframes set
24 forth in this Act, the date the application was
25 received and the reasons for any delays, which may
26 include, but shall not be limited to, (i) the

1 application being inadequate or incomplete, (ii)
2 scientific or technical disagreements with the
3 applicant, USEPA, or other local, state, or federal
4 agencies involved in the permitting approval process,
5 (iii) public opposition to the permit, or (iv) Agency
6 staffing shortages. To the extent practicable, the
7 tracking report shall provide approximate dates when
8 cause for delay was identified by the Agency, when the
9 Agency informed the applicant of the problem leading
10 to the delay, and when the applicant remedied the
11 reason for the delay.

12 (r) Upon the request of the applicant, the Agency shall
13 notify the applicant of the permit analyst assigned to the
14 application upon its receipt.

15 (s) The Agency is authorized to prepare and distribute
16 guidance documents relating to its administration of this
17 Section and procedural rules implementing this Section.
18 Guidance documents prepared under this subsection shall not be
19 considered rules and shall not be subject to the Illinois
20 Administrative Procedure Act. Such guidance shall not be
21 binding on any party.

22 (t) Except as otherwise prohibited by federal law or
23 regulation, any person submitting an application for a permit
24 may include with the application suggested permit language for
25 Agency consideration. The Agency is not obligated to use the
26 suggested language or any portion thereof in its permitting

1 decision. If requested by the permit applicant, the Agency
2 shall meet with the applicant to discuss the suggested
3 language.

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

7 (v) If requested by the permit applicant, the Agency shall
8 provide the permit applicant with a copy of the final permit
9 prior to its issuance.

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

13 (x) If, before the expiration of a State operating permit
14 that is issued pursuant to subsection (a) of this Section and
15 contains federally enforceable conditions limiting the
16 potential to emit of the source to a level below the major
17 source threshold for that source so as to exclude the source
18 from the Clean Air Act Permit Program, the Agency receives a
19 complete application for the renewal of that permit, then all
20 of the terms and conditions of the permit shall remain in
21 effect until final administrative action has been taken on the
22 application for the renewal of the permit.

23 (y) The Agency may issue permits exclusively under this
24 subsection to persons owning or operating a CCR surface
25 impoundment subject to Section 22.59.

26 (z) If a mass animal mortality event is declared by the

1 Department of Agriculture in accordance with the Animal
2 Mortality Act:

3 (1) the owner or operator responsible for the disposal
4 of dead animals is exempted from the following:

5 (i) obtaining a permit for the construction,
6 installation, or operation of any type of facility or
7 equipment issued in accordance with subsection (a) of
8 this Section;

9 (ii) obtaining a permit for open burning in
10 accordance with the rules adopted by the Board; and

11 (iii) registering the disposal of dead animals as
12 an eligible small source with the Agency in accordance
13 with Section 9.14 of this Act;

14 (2) as applicable, the owner or operator responsible
15 for the disposal of dead animals is required to obtain the
16 following permits:

17 (i) an NPDES permit in accordance with subsection
18 (b) of this Section;

19 (ii) a PSD permit or an NA NSR permit in accordance
20 with Section 9.1 of this Act;

21 (iii) a lifetime State operating permit or a
22 federally enforceable State operating permit, in
23 accordance with subsection (a) of this Section; or

24 (iv) a CAAPP permit, in accordance with Section
25 39.5 of this Act.

26 All CCR surface impoundment permits shall contain those

1 terms and conditions, including, but not limited to, schedules
2 of compliance, which may be required to accomplish the
3 purposes and provisions of this Act, Board regulations, the
4 Illinois Groundwater Protection Act and regulations pursuant
5 thereto, and the Resource Conservation and Recovery Act and
6 regulations pursuant thereto, and may include schedules for
7 achieving compliance therewith as soon as possible.

8 The Board shall adopt filing requirements and procedures
9 that are necessary and appropriate for the issuance of CCR
10 surface impoundment permits and that are consistent with this
11 Act or regulations adopted by the Board, and with the RCRA, as
12 amended, and regulations pursuant thereto.

13 The applicant shall make available to the public for
14 inspection all documents submitted by the applicant to the
15 Agency in furtherance of an application, with the exception of
16 trade secrets, on its public internet website as well as at the
17 office of the county board or governing body of the
18 municipality where CCR from the CCR surface impoundment will
19 be permanently disposed. Such documents may be copied upon
20 payment of the actual cost of reproduction during regular
21 business hours of the local office.

22 The Agency shall issue a written statement concurrent with
23 its grant or denial of the permit explaining the basis for its
24 decision.

25 (Source: P.A. 104-458, eff. 6-1-26.)

1 (415 ILCS 5/39.16 new)

2 Sec. 39.16. Requirement to sample sludges and biosolids
3 for perfluoroalkyl and polyfluoroalkyl substances.

4 (a) The purpose of this Section is to provide for the
5 sampling for perfluoroalkyl and polyfluoroalkyl substances of
6 any sludge or biosolid that is land applied pursuant to a
7 permit issued by the Agency.

8 (b) The Agency shall not issue any permit required under
9 subsection (b) of Section 12 for the land application of a
10 sludge or biosolid unless the application includes sample
11 results for the sludge or biosolid for all perfluoroalkyl and
12 polyfluoroalkyl substances for which there are accredited
13 wastewater analytical methods.

14 (c) Any permit required under subsection (b) of Section 12
15 issued by the Agency for the land application of a sludge or
16 biosolid shall require, at a minimum, periodic sampling of the
17 sludge or biosolid for all perfluoroalkyl and polyfluoroalkyl
18 substances for which there are accredited wastewater
19 analytical methods.

20 Section 95. No acceleration or delay. Where this Act makes
21 changes in a statute that is represented in this Act by text
22 that is not yet or no longer in effect (for example, a Section
23 represented by multiple versions), the use of that text does
24 not accelerate or delay the taking effect of (i) the changes
25 made by this Act or (ii) provisions derived from any other

1 Public Act.