



Sen. Laura Fine

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LRB104 19364 BDA 36695 a

1 AMENDMENT TO SENATE BILL 3917

2 AMENDMENT NO. _____. Amend Senate Bill 3917, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

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

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

9 Sec. 39. Issuance of permits; procedures.

10 (a) When the Board has by regulation required a permit for
11 the construction, installation, or operation of any type of
12 facility, equipment, vehicle, vessel, or aircraft, the
13 applicant shall apply to the Agency for such permit and it
14 shall be the duty of the Agency to issue such a permit upon
15 proof by the applicant that the facility, equipment, vehicle,
16 vessel, or aircraft will not cause a violation of this Act or

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

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

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

26 (iii) the specific type of information, if any, which

1 the Agency deems the applicant did not provide the Agency;
2 and

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

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

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

1 to be located.

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

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

25 (b) The Agency may issue NPDES permits exclusively under
26 this subsection for the discharge of contaminants from point

1 sources into navigable waters, all as defined in the Federal
2 Water Pollution Control Act, as now or hereafter amended,
3 within the jurisdiction of the State, or into any well.

4 All NPDES permits shall contain those terms and
5 conditions, including, but not limited to, schedules of
6 compliance, which may be required to accomplish the purposes
7 and provisions of this Act. All NPDES Permits authorizing a
8 discharge from a facility designated by the Agency and the
9 USEPA as a major facility shall require, at a minimum, for
10 publicly owned treatment works, as well as for privately owned
11 sewage treatment works, periodic sampling of influent,
12 effluent, and biosolids for all perfluoroalkyl and
13 polyfluoroalkyl substances for which there are accredited
14 wastewater analytical methods, and, for all other major
15 industrial facilities, periodic effluent sampling for all
16 perfluoroalkyl and polyfluoroalkyl substances for which there
17 are accredited wastewater analytical methods. If a permittee
18 demonstrates through monitoring data that perfluoroalkyl and
19 polyfluoroalkyl substances have not been detected above the
20 minimum level of quantification for a period of 2 consecutive
21 years, the permittee may request a modification of the NPDES
22 permit. If the Agency makes a determination that such a
23 request is acceptable, then the NPDES permit may be modified
24 to reduce sample frequency.

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

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

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

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

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
25 by regulations of the Board without the requirement of a
26 variance, subject to the Federal Water Pollution Control Act,

1 as now or 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
6 granted by the Agency unless the applicant submits proof to
7 the Agency that the location of the facility has been approved
8 by the county board of the county if in an unincorporated area,
9 or the governing body of the municipality when in an
10 incorporated area, in which the facility is to be located in
11 accordance with Section 39.2 of this Act. For purposes of this
12 subsection (c), and for purposes of Section 39.2 of this Act,
13 the appropriate county board or governing body of the
14 municipality shall be the county board of the county or the
15 governing body of the municipality in which the facility is to
16 be located as of the date when the application for siting
17 approval is filed.

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

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

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

25 In the case of a pollution control facility for which a
26 development permit was issued before November 12, 1981, if an

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

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

23 Except for those facilities owned or operated by sanitary
24 districts organized under the Metropolitan Water Reclamation
25 District Act, and except for new pollution control facilities
26 governed by Section 39.2, and except for fossil fuel mining

1 facilities, the granting of a permit under this Act shall not
2 relieve the applicant from meeting and securing all necessary
3 zoning approvals from the unit of government having zoning
4 jurisdiction over the proposed facility.

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

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

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

26 (2) the operator submitted a permit application to the

1 Agency to develop and operate the municipal waste transfer
2 station during April of 1994;

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

9 (4) the site has local zoning approval.

10 (d) The Agency may issue RCRA permits exclusively under
11 this subsection to persons owning or operating a facility for
12 the treatment, storage, or disposal of hazardous waste as
13 defined under this Act. Subsection (y) of this Section, rather
14 than this subsection (d), shall apply to permits issued for
15 CCR surface impoundments.

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

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

7 The Agency shall adopt filing requirements and procedures
8 which are necessary and appropriate for the issuance of RCRA
9 permits, and which are consistent with the Act or regulations
10 adopted by the Board, and with the Resource Conservation and
11 Recovery Act of 1976 (P.L. 94-580), as amended, and
12 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, at the office of the county board or governing
17 body of the municipality. Such documents may be copied upon
18 payment of the actual cost of reproduction during regular
19 business hours of the local office. The Agency shall issue a
20 written statement concurrent with its grant or denial of the
21 permit explaining the basis for its decision.

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

26 All UIC permits shall contain those terms and conditions,

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

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

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

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

26 (1) The Agency shall have authority to make the

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

8 (2) The Agency shall adopt requirements as necessary
9 to implement public participation procedures, including,
10 but not limited to, public notice, comment, and an
11 opportunity for hearing, which must accompany the
12 processing of applications for PSD permits. The Agency
13 shall briefly describe and respond to all significant
14 comments on the draft permit raised during the public
15 comment period or during any hearing. The Agency may group
16 related comments together and provide one unified response
17 for each issue raised.

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

22 (4) The Agency shall, after conferring with the
23 applicant, give written notice to the applicant of its
24 proposed decision on the application, including the terms
25 and conditions of the permit to be issued and the facts,
26 conduct, or other basis upon which the Agency will rely to

1 support its proposed action.

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

13 (h) A hazardous waste stream may not be deposited in a
14 permitted hazardous waste site unless specific authorization
15 is obtained from the Agency by the generator and disposal site
16 owner and operator for the deposit of that specific hazardous
17 waste stream. The Agency may grant specific authorization for
18 disposal of hazardous waste streams only after the generator
19 has reasonably demonstrated that, considering technological
20 feasibility and economic reasonableness, the hazardous waste
21 cannot be reasonably recycled for reuse, nor incinerated or
22 chemically, physically, or biologically treated so as to
23 neutralize the hazardous waste and render it nonhazardous. In
24 granting authorization under this Section, the Agency may
25 impose such conditions as may be necessary to accomplish the
26 purposes of the Act and are consistent with this Act and

1 regulations promulgated by the Board hereunder. If the Agency
2 refuses to grant authorization under this Section, the
3 applicant may appeal as if the Agency refused to grant a
4 permit, pursuant to the provisions of subsection (a) of
5 Section 40 of this Act. For purposes of this subsection (h),
6 the term "generator" has the meaning given in Section 3.205 of
7 this Act, unless: (1) the hazardous waste is treated,
8 incinerated, or partially recycled for reuse prior to
9 disposal, in which case the last person who treats,
10 incinerates, or partially recycles the hazardous waste prior
11 to disposal is the generator; or (2) the hazardous waste is
12 from a response action, in which case the person performing
13 the response action is the generator. This subsection (h) does
14 not apply to any hazardous waste that is restricted from land
15 disposal under 35 Ill. Adm. Code 728.

16 (i) Before issuing any RCRA permit, any permit for a waste
17 storage site, sanitary landfill, waste disposal site, waste
18 transfer station, waste treatment facility, waste incinerator,
19 or any waste-transportation operation, any permit or interim
20 authorization for a clean construction or demolition debris
21 fill operation, or any permit required under subsection (d-5)
22 of Section 55, the Agency shall conduct an evaluation of the
23 prospective owner's or operator's prior experience in waste
24 management operations, clean construction or demolition debris
25 fill operations, and tire storage site management. The Agency
26 may deny such a permit, or deny or revoke interim

1 authorization, if the prospective owner or operator or any
2 employee or officer of the prospective owner or operator has a
3 history of:

4 (1) repeated violations of federal, State, or local
5 laws, regulations, standards, or ordinances in the
6 operation of waste management facilities or sites, clean
7 construction or demolition debris fill operation
8 facilities or sites, or tire storage sites; or

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

17 (3) proof of gross carelessness or incompetence in
18 handling, storing, processing, transporting, or disposing
19 of waste, clean construction or demolition debris, or used
20 or waste tires, or proof of gross carelessness or
21 incompetence in using clean construction or demolition
22 debris as fill.

23 (i-5) Before issuing any permit or approving any interim
24 authorization for a clean construction or demolition debris
25 fill operation in which any ownership interest is transferred
26 between January 1, 2005, and the effective date of the

1 prohibition set forth in Section 22.52 of this Act, the Agency
2 shall conduct an evaluation of the operation if any previous
3 activities at the site or facility may have caused or allowed
4 contamination of the site. It shall be the responsibility of
5 the owner or operator seeking the permit or interim
6 authorization to provide to the Agency all of the information
7 necessary for the Agency to conduct its evaluation. The Agency
8 may deny a permit or interim authorization if previous
9 activities at the site may have caused or allowed
10 contamination at the site, unless such contamination is
11 authorized under any permit issued by the Agency.

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

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

1 deemed to begin on the date upon which such review process or
2 litigation is concluded.

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

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

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

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

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

1 Agency; and

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

5 If no final action is taken by the Agency within 90 days
6 after the filing of the application for permit, the applicant
7 may deem the permit issued. Any applicant for a permit may
8 waive the 90-day limitation by filing a written statement with
9 the Agency.

10 The Agency shall issue permits for such facilities upon
11 receipt of an application that includes a legal description of
12 the site, a topographic map of the site drawn to the scale of
13 200 feet to the inch or larger, a description of the operation,
14 including the area served, an estimate of the volume of
15 materials to be processed, and documentation that:

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

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

20 (3) the facility is located so as to minimize
21 incompatibility with the character of the surrounding
22 area, including at least a 200 foot setback from any
23 residence, and in the case of a facility that is developed
24 or the permitted composting area of which is expanded
25 after November 17, 1991, the composting area is located at
26 least 1/8 mile from the nearest residence (other than a

1 residence located on the same property as the facility);

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

7 (5) the operation of the facility will include
8 appropriate dust and odor control measures, limitations on
9 operating hours, appropriate noise control measures for
10 shredding, chipping and similar equipment, management
11 procedures for composting, containment and disposal of
12 non-compostable wastes, procedures to be used for
13 terminating operations at the site, and recordkeeping
14 sufficient to document the amount of materials received,
15 composted, and otherwise disposed of; and

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

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

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

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

5 (o) (Blank).

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

24 When a permit applicant submits information to the Agency
25 to supplement a permit application being reviewed by the
26 Agency, the applicant shall not be required to reissue the

1 notice under this subsection.

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

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

21 (q) Within 6 months after July 12, 2011 (the effective
22 date of Public Act 97-95), the Agency, in consultation with
23 the regulated community, shall develop a web portal to be
24 posted on its website for the purpose of enhancing review and
25 promoting timely issuance of permits required by this Act. At
26 a minimum, the Agency shall make the following information

1 available on the web portal:

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

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

14 (3) Within 2 years after July 12, 2011 (the effective
15 date of Public Act 97-95), an online tracking system where
16 an applicant may review the status of its pending
17 application, including the name and contact information of
18 the permit analyst assigned to the application. Until the
19 online tracking system has been developed, the Agency
20 shall post on its website semi-annual permitting
21 efficiency tracking reports that include statistics on the
22 timeframes for Agency action on the following types of
23 permits received after July 12, 2011 (the effective date
24 of Public Act 97-95): air construction permits, new NPDES
25 permits and associated water construction permits, and
26 modifications of major NPDES permits and associated water

1 construction permits. The reports must be posted by
2 February 1 and August 1 each year and shall include:

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

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

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

26 (s) The Agency is authorized to prepare and distribute

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

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

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

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

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

24 (x) If, before the expiration of a State operating permit
25 that is issued pursuant to subsection (a) of this Section and
26 contains federally enforceable conditions limiting the

1 potential to emit of the source to a level below the major
2 source threshold for that source so as to exclude the source
3 from the Clean Air Act Permit Program, the Agency receives a
4 complete application for the renewal of that permit, then all
5 of the terms and conditions of the permit shall remain in
6 effect until final administrative action has been taken on the
7 application for the renewal of the permit.

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

11 (z) If a mass animal mortality event is declared by the
12 Department of Agriculture in accordance with the Animal
13 Mortality Act:

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

16 (i) obtaining a permit for the construction,
17 installation, or operation of any type of facility or
18 equipment issued in accordance with subsection (a) of
19 this Section;

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

22 (iii) registering the disposal of dead animals as
23 an eligible small source with the Agency in accordance
24 with Section 9.14 of this Act;

25 (2) as applicable, the owner or operator responsible
26 for the disposal of dead animals is required to obtain the

1 following permits:

2 (i) an NPDES permit in accordance with subsection
3 (b) of this Section;

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

6 (iii) a lifetime State operating permit or a
7 federally enforceable State operating permit, in
8 accordance with subsection (a) of this Section; or

9 (iv) a CAAPP permit, in accordance with Section
10 39.5 of this Act.

11 All CCR surface impoundment permits shall contain those
12 terms and conditions, including, but not limited to, schedules
13 of compliance, which may be required to accomplish the
14 purposes and provisions of this Act, Board regulations, the
15 Illinois Groundwater Protection Act and regulations pursuant
16 thereto, and the Resource Conservation and Recovery Act and
17 regulations pursuant thereto, and may include schedules for
18 achieving compliance therewith as soon as possible.

19 The Board shall adopt filing requirements and procedures
20 that are necessary and appropriate for the issuance of CCR
21 surface impoundment permits and that are consistent with this
22 Act or regulations adopted by the Board, and with the RCRA, as
23 amended, and regulations pursuant thereto.

24 The applicant shall make available to the public for
25 inspection all documents submitted by the applicant to the
26 Agency in furtherance of an application, with the exception of

1 trade secrets, on its public internet website as well as at the
2 office of the county board or governing body of the
3 municipality where CCR from the CCR surface impoundment will
4 be permanently disposed. Such documents may be copied upon
5 payment of the actual cost of reproduction during regular
6 business hours of the local office.

7 The Agency shall issue a written statement concurrent with
8 its grant or denial of the permit explaining the basis for its
9 decision.

10 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
11 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

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

13 Sec. 39. Issuance of permits; procedures.

14 (a) When the Board has by regulation required a permit for
15 the construction, installation, or operation of any type of
16 facility, equipment, vehicle, vessel, or aircraft, the
17 applicant shall apply to the Agency for such permit and it
18 shall be the duty of the Agency to issue such a permit upon
19 proof by the applicant that the facility, equipment, vehicle,
20 vessel, or aircraft will not cause a violation of this Act or
21 of regulations hereunder. The Agency shall adopt such
22 procedures as are necessary to carry out its duties under this
23 Section. In making its determinations on permit applications
24 under this Section the Agency may consider prior adjudications
25 of noncompliance with this Act by the applicant that involved

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

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

18 (ii) the provision of the regulations, promulgated
19 under this Act, which may be violated if the permit were
20 granted;

21 (iii) the specific type of information, if any, which
22 the Agency deems the applicant did not provide the Agency;
23 and

24 (iv) a statement of specific reasons why the Act and
25 the regulations might not be met if the permit were
26 granted.

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

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

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

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

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

20 Each air pollution construction permit for diesel powered
21 backup generators to a source that is a data center, as defined
22 in subsection (c) of Section 605-1025 of the Department of
23 Commerce and Economic Opportunity Law of the Civil
24 Administrative Code of Illinois, that is applied for 6 months
25 after the effective date of this amendatory Act of the 104th
26 General Assembly and that is required to have a federally

1 enforceable State operating permit or a Clean Air Act Permit
2 Program permit shall, in addition to any other applicable
3 requirements, require each backup generator to: (i) meet
4 standards at least as protective as Tier 4 standards for
5 non-road diesel engines set out by the United States
6 Environmental Protection Agency in 40 CFR 1039, as it exists
7 on the effective date of this amendatory Act of the 104th
8 General Assembly, and (ii) operate solely as an emergency or
9 standby unit in accordance with 35 Ill. Adm. Code 211.1920, as
10 it exists on the effective date of this amendatory Act of the
11 104th General Assembly. If a diesel powered backup generator
12 becomes out of compliance with the Tier 4 standards for
13 non-road compression-ignition engines during a power outage,
14 the backup generator may (1) continue to operate for up to 24
15 sequential hours after becoming noncompliant with the Tier 4
16 standards or (2) operate when compliance is achieved.
17 Notwithstanding any provision of law to the contrary,
18 operation of the backup generator for up to 24 sequential
19 hours after becoming noncompliant with the Tier 4 standards
20 shall not be considered a violation of the permit.

21 Each air pollution construction permit for natural gas
22 powered backup generators for a source that is a data center,
23 as defined in subsection (c) of Section 605-1025 of the
24 Department of Commerce and Economic Opportunity Law of the
25 Civil Administrative Code of Illinois, that is applied for 6
26 months after the effective date of this amendatory Act of the

1 104th General Assembly and that is required to have a
2 federally enforceable State operating permit or a Clean Air
3 Act Permit Program permit shall, in addition to any other
4 applicable requirements, require each backup generator to: (i)
5 meet standards at least as protective as Tier 2 standards for
6 non-road large spark-ignition engines set out by the United
7 States Environmental Protection Agency in 40 CFR 1048, as it
8 exists on the effective date of this amendatory Act of the
9 104th General Assembly, and (ii) operate solely as an
10 emergency or standby unit in accordance with 35 Ill. Adm. Code
11 211.1920, as it exists on the effective date of this
12 amendatory Act of the 104th General Assembly. If a natural gas
13 powered backup generator becomes out of compliance with the
14 Tier 2 standards for non-road large spark-ignition engines
15 during a power outage, the backup generator may (1) continue
16 to operate for up to 24 sequential hours after becoming
17 noncompliant with the Tier 2 standards or (2) operate when
18 compliance is achieved. Notwithstanding any provision of law
19 to the contrary, operation of the backup generator for up to 24
20 sequential hours after becoming noncompliant with the Tier 2
21 standards shall not be considered a violation of the permit.

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

1 All NPDES permits shall contain those terms and
2 conditions, including, but not limited to, schedules of
3 compliance, which may be required to accomplish the purposes
4 and provisions of this Act. All NPDES Permits authorizing a
5 discharge from a facility designated by the Agency and the
6 USEPA as a major facility shall require, at a minimum, for
7 publicly owned treatment works, as well as for privately owned
8 sewage treatment works, periodic sampling of influent,
9 effluent, and biosolids for all perfluoroalkyl and
10 polyfluoroalkyl substances for which there are accredited
11 wastewater analytical methods, and, for all other major
12 industrial facilities, periodic effluent sampling for all
13 perfluoroalkyl and polyfluoroalkyl substances for which there
14 are accredited wastewater analytical methods. If a permittee
15 demonstrates through monitoring data that perfluoroalkyl and
16 polyfluoroalkyl substances have not been detected above the
17 minimum level of quantification for a period of 2 consecutive
18 years, the permittee may request a modification of the NPDES
19 permit. If the Agency makes a determination that such a
20 request is acceptable, then the NPDES permit may be modified
21 to reduce sample frequency.

22 The Agency may issue general NPDES permits for discharges
23 from categories of point sources which are subject to the same
24 permit limitations and conditions. Such general permits may be
25 issued without individual applications and shall conform to
26 regulations promulgated under Section 402 of the Federal Water

1 Pollution Control Act, as now or hereafter amended.

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

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

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

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

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

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

1 granted. In that event, the Agency shall conduct an evaluation
2 of the subsequent owner or operator's prior experience in
3 waste management operations in the manner conducted under
4 subsection (i) of Section 39 of this Act.

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

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

1 an original operating permit for any portion of such facility
2 unless the applicant has submitted proof to the Agency that
3 the location of the facility has been approved by the
4 appropriate county board or municipal governing body pursuant
5 to Section 39.2 of this Act.

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

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

1 jurisdiction over the proposed facility.

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

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

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

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

26 (3) the operator can demonstrate that the county board

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

6 (4) the site has local zoning approval.

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

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

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

1 operator of the facility perform such analyses of the waste to
2 be incinerated as may be necessary and appropriate to ensure
3 the safe operation of the incinerator.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (g) The Agency shall include as conditions upon all
26 permits issued for hazardous waste disposal sites such

1 restrictions upon the future use of such sites as are
2 reasonably necessary to protect public health and the
3 environment, including permanent prohibition of the use of
4 such sites for purposes which may create an unreasonable risk
5 of injury to human health or to the environment. After
6 administrative and judicial challenges to such restrictions
7 have been exhausted, the Agency shall file such restrictions
8 of record in the Office of the Recorder of the county in which
9 the hazardous waste disposal site is located.

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

1 permit, pursuant to the provisions of subsection (a) of
2 Section 40 of this Act. For purposes of this subsection (h),
3 the term "generator" has the meaning given in Section 3.205 of
4 this Act, unless: (1) the hazardous waste is treated,
5 incinerated, or partially recycled for reuse prior to
6 disposal, in which case the last person who treats,
7 incinerates, or partially recycles the hazardous waste prior
8 to disposal is the generator; or (2) the hazardous waste is
9 from a response action, in which case the person performing
10 the response action is the generator. This subsection (h) does
11 not apply to any hazardous waste that is restricted from land
12 disposal under 35 Ill. Adm. Code 728.

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

1 (1) repeated violations of federal, State, or local
2 laws, regulations, standards, or ordinances in the
3 operation of waste management facilities or sites, clean
4 construction or demolition debris fill operation
5 facilities or sites, or tire storage sites; or

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

14 (3) proof of gross carelessness or incompetence in
15 handling, storing, processing, transporting, or disposing
16 of waste, clean construction or demolition debris, or used
17 or waste tires, or proof of gross carelessness or
18 incompetence in using clean construction or demolition
19 debris as fill.

20 (i-5) Before issuing any permit or approving any interim
21 authorization for a clean construction or demolition debris
22 fill operation in which any ownership interest is transferred
23 between January 1, 2005, and the effective date of the
24 prohibition set forth in Section 22.52 of this Act, the Agency
25 shall conduct an evaluation of the operation if any previous
26 activities at the site or facility may have caused or allowed

1 contamination of the site. It shall be the responsibility of
2 the owner or operator seeking the permit or interim
3 authorization to provide to the Agency all of the information
4 necessary for the Agency to conduct its evaluation. The Agency
5 may deny a permit or interim authorization if previous
6 activities at the site may have caused or allowed
7 contamination at the site, unless such contamination is
8 authorized under any permit issued by the Agency.

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

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

26 (l) No permit shall be issued by the Agency under this Act

1 for construction or operation of any facility or site located
2 within the boundaries of any setback zone established pursuant
3 to this Act, where such construction or operation is
4 prohibited.

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

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

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

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

25 (4) a statement of specific reasons why the Act and
26 the regulations might be violated if the permit were

1 granted.

2 If no final action is taken by the Agency within 90 days
3 after the filing of the application for permit, the applicant
4 may deem the permit issued. Any applicant for a permit may
5 waive the 90-day limitation by filing a written statement with
6 the Agency.

7 The Agency shall issue permits for such facilities upon
8 receipt of an application that includes a legal description of
9 the site, a topographic map of the site drawn to the scale of
10 200 feet to the inch or larger, a description of the operation,
11 including the area served, an estimate of the volume of
12 materials to be processed, and documentation that:

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

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

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

25 (4) the design of the facility will prevent any
26 compost material from being placed within 5 feet of the

1 water table, will adequately control runoff from the site,
2 and will collect and manage any leachate that is generated
3 on the site;

4 (5) the operation of the facility will include
5 appropriate dust and odor control measures, limitations on
6 operating hours, appropriate noise control measures for
7 shredding, chipping and similar equipment, management
8 procedures for composting, containment and disposal of
9 non-compostable wastes, procedures to be used for
10 terminating operations at the site, and recordkeeping
11 sufficient to document the amount of materials received,
12 composted, and otherwise disposed of; and

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

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

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

24 (n) The Agency shall issue permits jointly with the
25 Department of Transportation for the dredging or deposit of
26 material in Lake Michigan in accordance with Section 18 of the

1 Rivers, Lakes, and Streams Act.

2 (o) (Blank).

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

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

25 (2) The Agency shall accept written comments concerning
26 the permit application that are postmarked no later than 30

1 days after the filing of the permit application, unless the
2 time period to accept comments is extended by the Agency.

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

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

25 (1) Checklists and guidance relating to the completion
26 of permit applications, developed pursuant to subsection

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

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

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

26 (A) the number of applications received for each

1 type of permit, the number of applications on which
2 the Agency has taken action, and the number of
3 applications still pending; and

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

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

23 (s) The Agency is authorized to prepare and distribute
24 guidance documents relating to its administration of this
25 Section and procedural rules implementing this Section.
26 Guidance documents prepared under this subsection shall not be

1 considered rules and shall not be subject to the Illinois
2 Administrative Procedure Act. Such guidance shall not be
3 binding on any party.

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

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

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

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

21 (x) If, before the expiration of a State operating permit
22 that is issued pursuant to subsection (a) of this Section and
23 contains federally enforceable conditions limiting the
24 potential to emit of the source to a level below the major
25 source threshold for that source so as to exclude the source
26 from the Clean Air Act Permit Program, the Agency receives a

1 complete application for the renewal of that permit, then all
2 of the terms and conditions of the permit shall remain in
3 effect until final administrative action has been taken on the
4 application for the renewal of the permit.

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

8 (z) If a mass animal mortality event is declared by the
9 Department of Agriculture in accordance with the Animal
10 Mortality Act:

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

13 (i) obtaining a permit for the construction,
14 installation, or operation of any type of facility or
15 equipment issued in accordance with subsection (a) of
16 this Section;

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

19 (iii) registering the disposal of dead animals as
20 an eligible small source with the Agency in accordance
21 with Section 9.14 of this Act;

22 (2) as applicable, the owner or operator responsible
23 for the disposal of dead animals is required to obtain the
24 following permits:

25 (i) an NPDES permit in accordance with subsection

26 (b) of this Section;

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

3 (iii) a lifetime State operating permit or a
4 federally enforceable State operating permit, in
5 accordance with subsection (a) of this Section; or

6 (iv) a CAAPP permit, in accordance with Section
7 39.5 of this Act.

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

16 The Board shall adopt filing requirements and procedures
17 that are necessary and appropriate for the issuance of CCR
18 surface impoundment permits and that are consistent with this
19 Act or regulations adopted by the Board, and with the RCRA, as
20 amended, and regulations pursuant thereto.

21 The applicant shall make available to the public for
22 inspection all documents submitted by the applicant to the
23 Agency in furtherance of an application, with the exception of
24 trade secrets, on its public internet website as well as at the
25 office of the county board or governing body of the
26 municipality where CCR from the CCR surface impoundment will

1 be permanently disposed. Such documents may be copied upon
2 payment of the actual cost of reproduction during regular
3 business hours of the local office.

4 The Agency shall issue a written statement concurrent with
5 its grant or denial of the permit explaining the basis for its
6 decision.

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

8 (415 ILCS 5/39.16 new)

9 Sec. 39.16. Requirement to sample sludges and biosolids
10 for perfluoroalkyl and polyfluoroalkyl substances.

11 (a) The purpose of this Section is to provide for the
12 sampling for perfluoroalkyl and polyfluoroalkyl substances of
13 any sludge or biosolid that is land applied pursuant to a
14 permit issued by the Agency.

15 (b) The Agency shall not issue any permit required under
16 subsection (b) of Section 12 for the land application of a
17 sludge or biosolid unless the application includes sample
18 results for the sludge or biosolid for all perfluoroalkyl and
19 polyfluoroalkyl substances for which there are accredited
20 wastewater analytical methods.

21 (c) Any permit required under subsection (b) of Section 12
22 issued by the Agency for the land application of a sludge or
23 biosolid shall require, at a minimum, periodic sampling of the
24 sludge or biosolid for all perfluoroalkyl and polyfluoroalkyl
25 substances for which there are accredited wastewater

1 analytical methods.

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.".