



Sen. Linda Holmes

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1 AMENDMENT TO SENATE BILL 1704

2 AMENDMENT NO. _____. Amend Senate Bill 1704 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 9.1 and 39 as follows:

6 (415 ILCS 5/9.1) (from Ch. 111 1/2, par. 1009.1)

7 Sec. 9.1. (a) The General Assembly finds that the federal
8 Clean Air Act, as amended, and regulations adopted pursuant
9 thereto establish complex and detailed provisions for
10 State-federal cooperation in the field of air pollution
11 control, provide for a Prevention of Significant Deterioration
12 program to regulate the issuance of preconstruction permits to
13 insure that economic growth will occur in a manner consistent
14 with the preservation of existing clean air resources, and also
15 provide for plan requirements for nonattainment areas to
16 regulate the construction, modification and operation of

1 sources of air pollution to insure that economic growth will
2 occur in a manner consistent with the goal of achieving the
3 national ambient air quality standards, and that the General
4 Assembly cannot conveniently or advantageously set forth in
5 this Act all the requirements of such federal Act or all
6 regulations which may be established thereunder.

7 It is the purpose of this Section to avoid the existence of
8 duplicative, overlapping or conflicting State and federal
9 regulatory systems.

10 (b) The provisions of Section 111 of the federal Clean Air
11 Act (42 USC 7411), as amended, relating to standards of
12 performance for new stationary sources, and Section 112 of the
13 federal Clean Air Act (42 USC 7412), as amended, relating to
14 the establishment of national emission standards for hazardous
15 air pollutants are applicable in this State and are enforceable
16 under this Act. Any such enforcement shall be stayed consistent
17 with any stay granted in any federal judicial action to review
18 such standards. Enforcement shall be consistent with the
19 results of any such judicial review.

20 (c) The Board may adopt regulations establishing permit
21 programs meeting the requirements of Sections 165 and 173 of
22 the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The
23 Agency may adopt procedures for the administration of such
24 programs.

25 (d) No person shall:

26 (1) violate any provisions of Sections 111, 112, 165 or

1 173 of the Clean Air Act, as now or hereafter amended, or
2 federal regulations adopted pursuant thereto; or

3 (2) construct, install, modify or operate any
4 equipment, building, facility, source or installation
5 which is subject to regulation under Sections 111, 112, 165
6 or 173 of the Clean Air Act, as now or hereafter amended,
7 except in compliance with the requirements of such Sections
8 and federal regulations adopted pursuant thereto, and no
9 such action shall be undertaken (A) without a permit
10 granted by the Agency whenever a permit is required
11 pursuant to (i) this Act or Board regulations or (ii)
12 Section 111, 112, 165, or 173 of the Clean Air Act or
13 federal regulations adopted pursuant thereto or (B) in
14 violation of any conditions imposed by such permit. Any
15 denial of such a permit or any conditions imposed in such a
16 permit shall be reviewable by the Board in accordance with
17 Section 40 of this Act.

18 (e) The Board shall exempt from regulation under the State
19 Implementation Plan for ozone the volatile organic compounds
20 which have been determined by the U.S. Environmental Protection
21 Agency to be exempt from regulation under state implementation
22 plans for ozone due to negligible photochemical reactivity. In
23 accordance with subsection (b) of Section 7.2, the Board shall
24 adopt regulations identical in substance to the U.S.
25 Environmental Protection Agency exemptions or deletion of
26 exemptions published in policy statements on the control of

1 volatile organic compounds in the Federal Register by amending
2 the list of exemptions to the Board's definition of volatile
3 organic material found at 35 Ill. Adm. Code Part 211. The
4 provisions and requirements of Title VII of this Act shall not
5 apply to regulations adopted under this subsection. Section
6 5-35 of the Illinois Administrative Procedure Act, relating to
7 procedures for rulemaking, does not apply to regulations
8 adopted under this subsection. However, the Board shall provide
9 for notice, a hearing if required by the U.S. Environmental
10 Protection Agency, and public comment before adopted rules are
11 filed with the Secretary of State. The Board may consolidate
12 into a single rulemaking under this subsection all such federal
13 policy statements published in the Federal Register within a
14 period of time not to exceed 6 months.

15 (f) (Blank). ~~If a complete application for a permit renewal~~
16 ~~is submitted to the Agency at least 90 days prior to expiration~~
17 ~~of the permit, all of the terms and conditions of the permit~~
18 ~~shall remain in effect until final administrative action has~~
19 ~~been taken on the application.~~

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

21 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

22 Sec. 39. Issuance of permits; procedures.

23 (a) When the Board has by regulation required a permit for
24 the construction, installation, or operation of any type of
25 facility, equipment, vehicle, vessel, or aircraft, the

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

- 25 (i) the Sections of this Act which may be violated if
26 the permit were granted;

1 (ii) the provision of the regulations, promulgated
2 under this Act, which may be violated if the permit were
3 granted;

4 (iii) the specific type of information, if any, which
5 the Agency deems the applicant did not provide the Agency;
6 and

7 (iv) a statement of specific reasons why the Act and
8 the regulations might not be met if the permit were
9 granted.

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

24 The Agency shall publish notice of all final permit
25 determinations for development permits for MSWLF units and for
26 significant permit modifications for lateral expansions for

1 existing MSWLF units one time in a newspaper of general
2 circulation in the county in which the unit is or is proposed
3 to be located.

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

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

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

6 All NPDES permits shall contain those terms and conditions,
7 including but not limited to schedules of compliance, which may
8 be required to accomplish the purposes and provisions of this
9 Act.

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

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

22 The Agency shall adopt filing requirements and procedures
23 which are necessary and appropriate for the issuance of NPDES
24 permits, and which are consistent with the Act or regulations
25 adopted by the Board, and with the Federal Water Pollution
26 Control Act, as now or hereafter amended, and regulations

1 pursuant thereto.

2 The Agency, subject to any conditions which may be
3 prescribed by Board regulations, may issue NPDES permits to
4 allow discharges beyond deadlines established by this Act or by
5 regulations of the Board without the requirement of a variance,
6 subject to the Federal Water Pollution Control Act, as now or
7 hereafter amended, and regulations pursuant thereto.

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

23 In the event that siting approval granted pursuant to
24 Section 39.2 has been transferred to a subsequent owner or
25 operator, that subsequent owner or operator may apply to the
26 Agency for, and the Agency may grant, a development or

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

13 Beginning August 20, 1993, if the pollution control
14 facility consists of a hazardous or solid waste disposal
15 facility for which the proposed site is located in an
16 unincorporated area of a county with a population of less than
17 100,000 and includes all or a portion of a parcel of land that
18 was, on April 1, 1993, adjacent to a municipality having a
19 population of less than 5,000, then the local siting review
20 required under this subsection (c) in conjunction with any
21 permit applied for after that date shall be performed by the
22 governing body of that adjacent municipality rather than the
23 county board of the county in which the proposed site is
24 located; and for the purposes of that local siting review, any
25 references in this Act to the county board shall be deemed to
26 mean the governing body of that adjacent municipality;

1 provided, however, that the provisions of this paragraph shall
2 not apply to any proposed site which was, on April 1, 1993,
3 owned in whole or in part by another municipality.

4 In the case of a pollution control facility for which a
5 development permit was issued before November 12, 1981, if an
6 operating permit has not been issued by the Agency prior to
7 August 31, 1989 for any portion of the facility, then the
8 Agency may not issue or renew any development permit nor issue
9 an original operating permit for any portion of such facility
10 unless the applicant has submitted proof to the Agency that the
11 location of the facility has been approved by the appropriate
12 county board or municipal governing body pursuant to Section
13 39.2 of this Act.

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

1 Act after the facility ceased accepting waste.

2 Except for those facilities owned or operated by sanitary
3 districts organized under the Metropolitan Water Reclamation
4 District Act, and except for new pollution control facilities
5 governed by Section 39.2, and except for fossil fuel mining
6 facilities, the granting of a permit under this Act shall not
7 relieve the applicant from meeting and securing all necessary
8 zoning approvals from the unit of government having zoning
9 jurisdiction over the proposed facility.

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

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

26 (1) the municipal waste transfer station was in

1 existence on or before January 1, 1979 and was in
2 continuous operation from January 1, 1979 to January 1,
3 1993;

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

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

13 (4) the site has local zoning approval.

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

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

1 bond or other security be provided as a condition for the
2 issuance of a RCRA permit.

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

9 The Agency shall adopt filing requirements and procedures
10 which are necessary and appropriate for the issuance of RCRA
11 permits, and which are consistent with the Act or regulations
12 adopted by the Board, and with the Resource Conservation and
13 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
14 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 (e) The Agency may issue UIC permits exclusively under this
25 subsection to persons owning or operating a facility for the
26 underground injection of contaminants as defined under this

1 Act.

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

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

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

26 (f) In making any determination pursuant to Section 9.1 of

1 this Act:

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

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

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

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

1 challenges to such restrictions have been exhausted, the Agency
2 shall file such restrictions of record in the Office of the
3 Recorder of the county in which the hazardous waste disposal
4 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 Section
23 40 of this Act. For purposes of this subsection (h), the term
24 "generator" has the meaning given in Section 3.205 of this Act,
25 unless: (1) the hazardous waste is treated, incinerated, or
26 partially recycled for reuse prior to disposal, in which case

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

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

1 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 or clean construction or demolition debris, or
9 proof of gross carelessness or incompetence in using clean
10 construction or demolition debris as fill.

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

26 (j) The issuance under this Act of a permit to engage in

1 the surface mining of any resources other than fossil fuels
2 shall not relieve the permittee from its duty to comply with
3 any applicable local law regulating the commencement, location
4 or operation of surface mining facilities.

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

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

22 (m) The Agency may issue permits to persons owning or
23 operating a facility for composting landscape waste. In
24 granting such permits, the Agency may impose such conditions as
25 may be necessary to accomplish the purposes of this Act, and as
26 are not inconsistent with applicable regulations promulgated

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

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

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

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

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

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

23 The Agency shall issue permits for such facilities upon
24 receipt of an application that includes a legal description of
25 the site, a topographic map of the site drawn to the scale of
26 200 feet to the inch or larger, a description of the operation,

1 including the area served, an estimate of the volume of
2 materials to be processed, and documentation that:

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

5 (2) the facility is located outside the boundary of the
6 10-year floodplain or the site will be floodproofed;

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

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

20 (5) the operation of the facility will include
21 appropriate dust and odor control measures, limitations on
22 operating hours, appropriate noise control measures for
23 shredding, chipping and similar equipment, management
24 procedures for composting, containment and disposal of
25 non-compostable wastes, procedures to be used for
26 terminating operations at the site, and recordkeeping

1 sufficient to document the amount of materials received,
2 composted and otherwise disposed of; and

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

5 The Agency shall issue renewable permits of not longer than
6 10 years in duration for the composting of landscape wastes, as
7 defined in Section 3.155 of this Act, based on the above
8 requirements.

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

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

18 (o) (Blank.)

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

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

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

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

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

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

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

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

22 (2) Within 2 years after the effective date of this
23 amendatory Act of the 97th General Assembly, permit
24 application forms or portions of permit applications that
25 can be completed and saved electronically, and submitted to
26 the Agency electronically with digital signatures.

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

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

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

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

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

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

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

1 shall meet with the applicant to discuss the suggested
2 language.

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

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

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

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

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

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