

AN ACT concerning safety.

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

Section 5. The Environmental Protection Act is amended by changing Sections 9.1, 9.12, 39, 40, and 41 and by adding Sections 3.298, 3.363, and 40.3 as follows:

(415 ILCS 5/3.298 new)

Sec. 3.298. Nonattainment new source review (NA NSR) permit. "Nonattainment New Source Review permit" or "NA NSR permit" means a permit or a portion of a permit for a new major source or major modification that is issued by the Illinois Environmental Protection Agency under the construction permit program pursuant to subsection (c) of Section 9.1 that has been approved by the United States Environmental Protection Agency and incorporated into the Illinois State Implementation Plan to implement the requirements of Section 173 of the Clean Air Act and 40 CFR 51.165.

(415 ILCS 5/3.363 new)

Sec. 3.363. Prevention of significant deterioration (PSD) permit. "Prevention of Significant Deterioration permit" or "PSD permit" means a permit or the portion of a permit for a new major source or major modification that is issued by the

Illinois Environmental Protection Agency under the construction permit program pursuant to subsection (c) of Section 9.1 that has been approved by the United States Environmental Protection Agency and incorporated into the Illinois State Implementation Plan to implement the requirements of Section 165 of the Clean Air Act and 40 CFR 51.166.

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

Sec. 9.1. (a) The General Assembly finds that the federal Clean Air Act, as amended, and regulations adopted pursuant thereto establish complex and detailed provisions for State-federal cooperation in the field of air pollution control, provide for a Prevention of Significant Deterioration program to regulate the issuance of preconstruction permits to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and also provide for plan requirements for nonattainment areas to regulate the construction, modification and operation of sources of air pollution to insure that economic growth will occur in a manner consistent with the goal of achieving the national ambient air quality standards, and that the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

It is the purpose of this Section to avoid the existence of

duplicative, overlapping or conflicting State and federal regulatory systems.

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

(c) The Board shall ~~may~~ adopt regulations establishing permit programs for PSD and NA NSR permits meeting the respective requirements of Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The Agency may adopt procedures for the administration of such programs.

The regulations adopted by the Board to establish a PSD permit program shall incorporate by reference, pursuant to subsection (a) of Section 5-75 of the Illinois Administrative Procedure Act, the provisions of 40 CFR 52.21, except for the following subparts: (a)(1) Plan disapproval, (q) Public participation, (s) Environmental impact statements, (t) Disputed permits or redesignations and (u) Delegation of authority; the Board may adopt more stringent or additional provisions to the extent it deems appropriate. To the extent

that the provisions of 40 CFR 52.21 provide for the Administrator to make various determinations and to take certain actions, these provisions shall be modified to indicate the Agency if appropriate. Nothing in this subsection shall be construed to limit the right of any person to submit a proposal to the Board or the authority of the Board to adopt elements of a PSD permit program that are more stringent than those contained in 40 CFR 52.21, pursuant to the rulemaking requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act.

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or

(2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken (A) without a permit granted by the Agency whenever a permit is required pursuant to (i) this Act or Board regulations or (ii) Section 111, 112, 165, or 173 of the Clean Air Act or federal regulations adopted pursuant thereto or (B) in violation of any conditions imposed by such permit. The

issuance or any ~~Any~~ denial of such a PSD permit or any conditions imposed therein ~~in such a permit~~ shall be reviewable by the Board in accordance with Section 40.3 ~~40~~ of this Act. Other permits addressed in this subsection (d) shall be reviewable by the Board in accordance with Section 40 of this Act.

(e) The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S. Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity. In accordance with subsection (b) of Section 7.2, the Board shall adopt regulations identical in substance to the U.S. Environmental Protection Agency exemptions or deletion of exemptions published in policy statements on the control of volatile organic compounds in the Federal Register by amending the list of exemptions to the Board's definition of volatile organic material found at 35 Ill. Adm. Code Part 211. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, does not apply to regulations adopted under this subsection. However, the Board shall provide for notice, a hearing if required by the U.S. Environmental Protection Agency, and public comment before adopted rules are filed with the Secretary of State. The Board may consolidate

into a single rulemaking under this subsection all such federal policy statements published in the Federal Register within a period of time not to exceed 6 months.

(f) (Blank).

(Source: P.A. 97-95, eff. 7-12-11; 98-284, eff. 8-9-13.)

(415 ILCS 5/9.12)

Sec. 9.12. Construction permit fees for air pollution sources.

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

(b) The fee amounts in this subsection (b) apply to construction permit applications relating to (i) a source subject to Section 39.5 of this Act (the Clean Air Act Permit Program); (ii) a source that, upon issuance of the requested construction permit, will become a major source subject to Section 39.5; or (iii) a source that has or will require a federally enforceable State operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) If the construction permit application relates to one or more new emission units or to a combination of new and modified emission units, a fee of \$4,000 for the first new emission unit and a fee of \$1,000 for each additional new or modified emission unit; provided that the total base fee under this subdivision (A) shall not exceed \$10,000.

(B) If the construction permit application relates to one or more modified emission units but not to any new emission unit, a fee of \$2,000 for the first modified emission unit and a fee of \$1,000 for each additional modified emission unit; provided that the total base fee under this subdivision (B) shall not exceed \$5,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If, based on the construction permit application, the source will be, but is not currently, subject to Section 39.5 of this Act, a CAAPP entry fee of \$5,000.

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial incinerator or other municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) one or more other emission units designated as

a complex source by Agency rulemaking, a fee of \$25,000.

(C) If the construction permit application involves an emissions netting exercise or reliance on a contemporaneous emissions decrease for a pollutant to avoid application of the ~~federal~~ PSD permit program (~~40 CFR 52.21~~) or nonattainment new source review (~~35 Ill. Adm. Code 203~~), a fee of \$3,000 for each such pollutant.

(D) If the construction permit application is for a new major source subject to the ~~federal~~ PSD permit program, a fee of \$12,000.

(E) If the construction permit application is for a new major source subject to nonattainment new source review, a fee of \$20,000.

(F) If the construction permit application is for a major modification subject to the ~~federal~~ PSD permit program, a fee of \$6,000.

(G) If the construction permit application is for a major modification subject to nonattainment new source review, a fee of \$12,000.

(H) (Blank).

(I) If the construction permit application review involves a determination of the Maximum Achievable Control Technology standard for a pollutant and the project is not otherwise subject to BACT or LAER for a

related pollutant under the ~~federal~~ PSD permit program or nonattainment new source review, a fee of \$5,000 per unit for which a determination is requested or otherwise required.

(J) (Blank).

(3) If a public hearing is held regarding the construction permit application, an administrative fee of \$10,000. This fee shall be submitted at the time the applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held.

(c) The fee amounts in this subsection (c) apply to construction permit applications relating to a source that, upon issuance of the construction permit, will not (i) be or become subject to Section 39.5 of this Act (the Clean Air Act Permit Program) or (ii) have or require a federally enforceable state operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) For a construction permit application involving a single new emission unit, a fee of \$500.

(B) For a construction permit application involving more than one new emission unit, a fee of \$1,000.

(C) For a construction permit application

involving no more than 2 modified emission units, a fee of \$500.

(D) For a construction permit application involving more than 2 modified emission units, a fee of \$1,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If the source is a new source, i.e., does not currently have an operating permit, an entry fee of \$500;

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial incinerator or a municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) an emission unit designated as a complex source by Agency rulemaking, a fee of \$15,000.

(3) If a public hearing is held regarding the construction permit application, an administrative fee of \$10,000. This fee shall be submitted at the time the applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held.

(d) If no other fee is applicable under this Section, a construction permit application addressing one or more of the

following shall be subject to a filing fee of \$500:

(1) A construction permit application to add or replace a control device on a permitted emission unit.

(2) A construction permit application to conduct a pilot project or trial burn for a permitted emission unit.

(3) A construction permit application for a land remediation project.

(4) (Blank).

(5) A construction permit application to revise an emissions testing methodology or the timing of required emissions testing.

(6) A construction permit application that provides for a change in the name, address, or phone number of any person identified in the permit, or for a change in the stated ownership or control, or for a similar minor administrative permit change at the source.

(e) No fee shall be assessed for a request to correct an issued permit that involves only an Agency error, if the request is received within the deadline for a permit appeal to the Pollution Control Board.

(f) The applicant for a new or revised air pollution construction permit shall submit to the Agency, with the construction permit application, both a certification of the fee that he or she estimates to be due under this Section and the fee itself.

(g) Notwithstanding the requirements of subsection (a) of

Section 39 of this Act, the application for an air pollution construction permit shall not be deemed to be filed with the Agency until the Agency receives the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section. Unless the Agency has received the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section, the Agency is not required to review or process the application.

(h) If the Agency determines at any time that a construction permit application is subject to an additional fee under this Section that the applicant has not submitted, the Agency shall notify the applicant in writing of the amount due under this Section. The applicant shall have 60 days to remit the assessed fee to the Agency.

If the proper fee established under this Section is not submitted within 60 days after the request for further remittance:

(1) If the construction permit has not yet been issued, the Agency is not required to further review or process, and the provisions of subsection (a) of Section 39 of this Act do not apply to, the application for a construction permit until such time as the proper fee is remitted.

(2) If the construction permit has been issued, the Agency may, upon written notice, immediately revoke the construction permit.

The denial or revocation of a construction permit does not excuse the applicant from the duty of paying the fees required under this Section.

(i) The Agency may deny the issuance of a pending air pollution construction permit or the subsequent operating permit if the applicant has not paid the required fees by the date required for issuance of the permit. The denial or revocation of a permit for failure to pay a construction permit fee is subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

(k) If an air pollution construction permittee makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution construction permit. Failure of the Agency to notify the permittee of the permittee's failure to make payment does not excuse or alter the duty of the permittee

to comply with the provisions of this Section.

(l) The Agency may establish procedures for the collection of air pollution construction permit fees.

(m) Fees collected pursuant to this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

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

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

Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when (1) notice and opportunity for

public hearing are required by State or federal law or regulation, (2) the application which was filed is for any permit to develop a landfill subject to issuance pursuant to this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection (p) of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit applications under subsection (b) of this Section, to RCRA permit applications under subsection (d) of this Section, or to UIC permit applications under subsection (e) of this Section.

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

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

consistent with this provision by January 1, 1994.

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

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

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

The Agency may issue general NPDES permits for discharges from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications and shall conform to

regulations promulgated under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended.

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

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

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

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been approved by the

County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act. For purposes of this subsection (c), and for purposes of Section 39.2 of this Act, the appropriate county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed.

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

Beginning August 20, 1993, if the pollution control

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

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

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

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

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

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

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

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

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

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

(4) the site has local zoning approval.

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

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

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

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

pursuant thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) conviction in this or another State of any crime which is a felony under the laws of this State, or

conviction of a felony in a federal court; or conviction in this or another state or federal court of any of the following crimes: forgery, official misconduct, bribery, perjury, or knowingly submitting false information under any environmental law, regulation, or permit term or condition; or

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

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

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

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

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

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

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

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

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

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

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

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

The Agency shall issue permits for such facilities upon receipt of an application that includes a legal description of the site, a topographic map of the site drawn to the scale of

200 feet to the inch or larger, a description of the operation, including the area served, an estimate of the volume of materials to be processed, and documentation that:

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

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

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

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

(5) the operation of the facility will include appropriate dust and odor control measures, limitations on operating hours, appropriate noise control measures for shredding, chipping and similar equipment, management procedures for composting, containment and disposal of non-compostable wastes, procedures to be used for

terminating operations at the site, and recordkeeping sufficient to document the amount of materials received, composted and otherwise disposed of; and

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

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

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

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

(o) (Blank.)

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

The notice must be published at least 15 days before submission of the permit application to the Agency. The notice shall state the name and address of the applicant, the location of the MSWLF unit or proposed MSWLF unit, the nature and size of the MSWLF unit or proposed MSWLF unit, the nature of the activity proposed, the probable life of the proposed activity, the date the permit application will be submitted, and a statement that persons may file written comments with the Agency concerning the permit application within 30 days after the filing of the permit application unless the time period to submit comments is extended by the Agency.

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

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

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

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

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

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

(2) Within 2 years after the effective date of this amendatory Act of the 97th General Assembly, permit application forms or portions of permit applications that can be completed and saved electronically, and submitted to

the Agency electronically with digital signatures.

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

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

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

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

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

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

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

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

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

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

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

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

(Source: P.A. 97-95, eff. 7-12-11; 98-284, eff. 8-9-13.)

(415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

Sec. 40. Appeal of permit denial.

(a) (1) If the Agency refuses to grant or grants with conditions a permit under Section 39 of this Act, the applicant may, within 35 days after the date on which the Agency served its decision on the applicant, petition for a hearing before the Board to contest the decision of the Agency. However, the 35-day period for petitioning for a hearing may be extended for an additional period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period. The Board shall give 21 day notice to any person in the county where is located the facility in issue who has requested notice of enforcement proceedings and to each member of the General Assembly in whose legislative district that installation or property is located; and shall publish that 21 day notice in a newspaper of general circulation in that county. The Agency shall appear as respondent in such hearing. At such hearing the rules prescribed in Section 32 and subsection (a) of Section 33 of this Act shall apply, and the burden of proof shall be on the petitioner. If, however, the Agency issues an NPDES permit that imposes limits which are based upon a criterion or denies a permit based upon application of a criterion, then the Agency shall have the burden of going forward with the basis for the derivation of those limits or criterion which were derived under the Board's rules.

(2) Except as provided in paragraph (a) (3), if there is no final action by the Board within 120 days after the date on

which it received the petition, the petitioner may deem the permit issued under this Act, provided, however, that that period of 120 days shall not run for any period of time, not to exceed 30 days, during which the Board is without sufficient membership to constitute the quorum required by subsection (a) of Section 5 of this Act, and provided further that such 120 day period shall not be stayed for lack of quorum beyond 30 days regardless of whether the lack of quorum exists at the beginning of such 120 day period or occurs during the running of such 120 day period.

(3) Paragraph (a) (2) shall not apply to any permit which is subject to subsection (b), (d) or (e) of Section 39. If there is no final action by the Board within 120 days after the date on which it received the petition, the petitioner shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act.

(b) If the Agency grants a RCRA permit for a hazardous waste disposal site, a third party, other than the permit applicant or Agency, may, within 35 days after the date on which the Agency issued its decision, petition the Board for a hearing to contest the issuance of the permit. Unless the Board determines that such petition is duplicative or frivolous, or that the petitioner is so located as to not be affected by the permitted facility, the Board shall hear the petition in accordance with the terms of subsection (a) of this Section and its procedural rules governing denial appeals, such hearing to

be based exclusively on the record before the Agency. The burden of proof shall be on the petitioner. The Agency and the permit applicant shall be named co-respondents.

The provisions of this subsection do not apply to the granting of permits issued for the disposal or utilization of sludge from publicly-owned sewage works.

(c) Any party to an Agency proceeding conducted pursuant to Section 39.3 of this Act may petition as of right to the Board for review of the Agency's decision within 35 days from the date of issuance of the Agency's decision, provided that such appeal is not duplicative or frivolous. However, the 35-day period for petitioning for a hearing may be extended by the applicant for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period. If another person with standing to appeal wishes to obtain an extension, there must be a written notice provided to the Board by that person, the Agency, and the applicant, within the initial appeal period. The decision of the Board shall be based exclusively on the record compiled in the Agency proceeding. In other respects the Board's review shall be conducted in accordance with subsection (a) of this Section and the Board's procedural rules governing permit denial appeals.

(d) In reviewing the denial or any condition of a NA NSR permit issued by the Agency pursuant to rules and regulations adopted under subsection (c) of Section 9.1 of this Act, the

decision of the Board shall be based exclusively on the record before the Agency including the record of the hearing, if any, ~~held pursuant to paragraph (f)(3) of Section 39~~ unless the parties agree to supplement the record. The Board shall, if it finds the Agency is in error, make a final determination as to the substantive limitations of the permit including a final determination of Lowest Achievable Emission Rate ~~or Best Available Control Technology~~.

(e) (1) If the Agency grants or denies a permit under subsection (b) of Section 39 of this Act, a third party, other than the permit applicant or Agency, may petition the Board within 35 days from the date of issuance of the Agency's decision, for a hearing to contest the decision of the Agency.

(2) A petitioner shall include the following within a petition submitted under subdivision (1) of this subsection:

(A) a demonstration that the petitioner raised the issues contained within the petition during the public notice period or during the public hearing on the NPDES permit application, if a public hearing was held; and

(B) a demonstration that the petitioner is so situated as to be affected by the permitted facility.

(3) If the Board determines that the petition is not duplicative or frivolous and contains a satisfactory demonstration under subdivision (2) of this subsection,

the Board shall hear the petition (i) in accordance with the terms of subsection (a) of this Section and its procedural rules governing permit denial appeals and (ii) exclusively on the basis of the record before the Agency. The burden of proof shall be on the petitioner. The Agency and permit applicant shall be named co-respondents.

(f) Any person who files a petition to contest the issuance of a permit by the Agency shall pay a filing fee.

(Source: P.A. 92-574, eff. 6-26-02.)

(415 ILCS 5/40.3 new)

Sec. 40.3. Review process for PSD permits.

(a) (1) Subsection (a) of Section 40 does not apply to any PSD permit that is subject to subsection (c) of Section 9.1 of this Act. If the Agency refused to grant or grants with conditions a PSD permit, the applicant may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency. If the Agency fails to act on an application for a PSD permit within the time frame specified in paragraph (3) of subsection (f) of Section 39 of this Act, the applicant may, before the Agency denies or issues the final permit, petition for a hearing before the Board to compel the Agency to act on the application in a time that is deemed reasonable.

(2) Any person who participated in the public comment process and is either aggrieved or has an interest that is or

may be adversely affected by the PSD permit may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency. If the petitioner failed to participate in the public comment process, the person may still petition for a hearing, but only upon issues where the final permit conditions reflect changes from the proposed draft permit.

The petition shall: (i) include such facts as necessary to demonstrate that the petitioner is aggrieved or has an interest that is or may be adversely affected; (ii) state the issues proposed for review, citing to the record where those issues were raised or explaining why such issues were not required to be raised during the public comment process; and (iii) explain why the Agency's previous response, if any, to those issues is (A) clearly erroneous or (B) an exercise of discretion or an important policy consideration that the Board should, in its discretion, review.

The Board shall hold a hearing upon a petition to contest the decision of the Agency under this paragraph (a) (2) unless the request is determined by the Board to be frivolous or to lack facially adequate factual statements required in this paragraph (a) (2).

The Agency shall appear as respondent in any hearing pursuant to this subsection (a). At such hearing the rules prescribed in Section 32 and subsection (a) of Section 33 of this Act shall apply, and the burden of proof shall be on the

petitioner.

(b) If there is no final action by the Board within 120 days after the date on which it received the petition, the PSD permit shall not be deemed issued; rather, any party shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act. This period of 120 days shall not run for any period of time, not to exceed 30 days, during which the Board is without sufficient membership to constitute the quorum required by subsection (a) of Section 5 of this Act. The 120-day period shall not be stayed for lack of quorum beyond 30 days, regardless of whether the lack of quorum exists at the beginning of the 120-day period or occurs during the running of the 120-day period.

(c) Any person who files a petition to contest the final permit action by the Agency under this Section shall pay the filing fee for petitions for review of permit set forth in Section 7.5.

(d)(1) In reviewing the denial or any condition of a PSD permit issued by the Agency pursuant to rules adopted under subsection (c) of Section 9.1 of this Act, the decision of the Board shall be based exclusively on the record before the Agency unless the parties agree to supplement the record.

(2) If requested by the applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application identified in subsection (f) of Section 39 of this Act during the pendency of the review process. In such cases,

the Board shall stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed by the applicant under this subsection (d). Subsection (b) of Section 10-65 of the Illinois Administrative Procedure Act shall not apply to actions under this subsection (d).

(3) If requested by a party other than the applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application identified in subsection (f) of Section 39 of this Act during the pendency of the review process. In such cases, the Board may stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. The party requesting the stay has the burden of demonstrating the following: (i) that an immediate stay is required in order to preserve the status quo without endangering the public, (ii) that it is not contrary to public policy, and (iii) that there is a reasonable likelihood of success on the merits. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed under this subsection (d) and shall remain in effect until a decision is issued by the Board

on the petition. Subsection (b) of Section 10-65 of the Illinois Administrative Procedure Act shall not apply to actions under this paragraph.

(415 ILCS 5/41) (from Ch. 111 1/2, par. 1041)

Sec. 41. Judicial review.

(a) Any party to a Board hearing, any person who filed a complaint on which a hearing was denied, any person who has been denied a variance or permit under this Act, any party adversely affected by a final order or determination of the Board, and any person who participated in the public comment process under subsection (8) of Section 39.5 of this Act may obtain judicial review, by filing a petition for review within 35 days from the date that a copy of the order or other final action sought to be reviewed was served upon the party affected by the order or other final Board action complained of, under the provisions of the Administrative Review Law, as amended and the rules adopted pursuant thereto, except that review shall be afforded directly in the Appellate Court for the District in which the cause of action arose and not in the Circuit Court. Review of any rule or regulation promulgated by the Board shall not be limited by this section but may also be had as provided in Section 29 of this Act.

(b) Any final order of the Board under this Act shall be based solely on the evidence in the record of the particular proceeding involved, and any such final order for permit

appeals, enforcement actions and variance proceedings, shall be invalid if it is against the manifest weight of the evidence. Notwithstanding this subsection, the Board may include such conditions in granting a variance and may adopt such rules and regulations as the policies of this Act may require. If an objection is made to a variance condition, the board shall reconsider the condition within not more than 75 days from the date of the objection.

(c) No challenge to the validity of a Board order shall be made in any enforcement proceeding under Title XII of this Act as to any issue that could have been raised in a timely petition for review under this Section.

(d) If there is no final action by the Board within 120 days on a request for a variance which is subject to subsection (c) of Section 38 or a permit appeal which is subject to paragraph (a) (3) of Section 40 or paragraph (d) of Section 40.2 or Section 40.3, the petitioner shall be entitled to an Appellate Court order under this subsection. If a hearing is required under this Act and was not held by the Board, the Appellate Court shall order the Board to conduct such a hearing, and to make a decision within 90 days from the date of the order. If a hearing was held by the Board, or if a hearing is not required under this Act and was not held by the Board, the Appellate Court shall order the Board to make a decision within 90 days from the date of the order.

The Appellate Court shall retain jurisdiction during the

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pendency of any further action conducted by the Board under an order by the Appellate Court. The Appellate Court shall have jurisdiction to review all issues of law and fact presented upon appeal.

(Source: P.A. 87-1213; 88-1; 88-464; 88-670, eff. 12-2-94.)