

# SB3291



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3291

Introduced 2/11/2020, by Sen. Linda Holmes

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/39

from Ch. 111 1/2, par. 1039

Amends the Environmental Protection Act. Requires the Environmental Protection Agency to grant to the City of Aurora a modification to a Class V Non-Hazardous Underground Injection Control Area Permit regarding disposal of lime residual if the permit was previously granted and other specified criteria are met. Provides that the City of Aurora is entitled to previous waivers, is allowed to transport lime residual from the water treatment site to the injection site by truck without a manifest, and shall receive a modified permit allowing the construction requirements of the system to change and alterations to be performed upon the permitted facility.

LRB101 17478 CPF 69960 b

A BILL FOR

1 AN ACT concerning safety.

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

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

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

7 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

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

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

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

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

1 such a request. The Board shall revise its regulations for the  
2 existing State air pollution operating permit program  
3 consistent with this provision by January 1, 1994.

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

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

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

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

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

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

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

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

23 (c) Except for those facilities owned or operated by  
24 sanitary districts organized under the Metropolitan Water  
25 Reclamation District Act, no permit for the development or  
26 construction of a new pollution control facility may be granted

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

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

1 management operations in the manner conducted under subsection  
2 (i) of Section 39 of this Act.

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

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



1 location of the facility has been approved by the appropriate  
2 county board or municipal governing body pursuant to Section  
3 39.2 of this Act.

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

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

26 Before beginning construction on any new sewage treatment

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

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

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

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

23 (3) the operator can demonstrate that the county board  
24 of the county, if the municipal waste transfer station is  
25 in an unincorporated area, or the governing body of the  
26 municipality, if the station is in an incorporated area,

1 does not object to resumption of the operation of the  
2 station; and

3 (4) the site has local zoning approval.

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

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

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

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

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

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

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

1 schedules for achieving compliance therewith. The Agency shall  
2 require that a performance bond or other security be provided  
3 as a condition for the issuance of a UIC permit.

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

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

18 (e-5) Notwithstanding any other provision of this Act, the  
19 Agency shall grant to the City of Aurora a modification to a  
20 Class V Non-Hazardous Underground Injection Control Area  
21 Permit to (i) construct and operate a system of disposal of  
22 lime residual and (ii) authorize the disposal of lime residual  
23 that originates at the municipality's water treatment plant  
24 into a subterranean limestone and dolomite mine cavity if the  
25 permit was previously granted and:

26 (1) the City of Aurora is requesting the modification;

1           (2) the fluid injected is only lime residual  
2           originating from the municipality's water treatment plant  
3           as set forth in the Class V Non-Hazardous Underground  
4           Injection Control Area Permit;

5           (3) the lime residual will be transported to a final  
6           storage area that is in an underground mine cavity located  
7           within the City of Aurora;

8           (4) no more than one injection site and well will be  
9           required; and

10           (5) the modification granted is a minor modification  
11           under the Agency rules establishing a Class V underground  
12           injection control program in Illinois.

13           The City of Aurora shall also be entitled to the following:

14           (1) Any waiver for the City of Aurora from the  
15           groundwater monitoring requirements granted in the Class V  
16           Non-Hazardous Underground Injection Control Area Permit  
17           shall also be granted for the permit modification.

18           (2) The transportation of the lime residual from the  
19           water treatment plant to the injection site may be done by  
20           trucks without a manifest.

21           (3) The modified permit shall allow the construction  
22           requirements of the system to change and alterations to be  
23           performed on the permitted facility.

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

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

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

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

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

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

1 support its proposed action.

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

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



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

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

1 employee or officer of the prospective owner or operator has a  
2 history of:

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

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

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

22 (i-5) Before issuing any permit or approving any interim  
23 authorization for a clean construction or demolition debris  
24 fill operation in which any ownership interest is transferred  
25 between January 1, 2005, and the effective date of the  
26 prohibition set forth in Section 22.52 of this Act, the Agency

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

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

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

1 litigation is concluded.

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

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

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

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

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

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

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

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

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

16           (2) the facility is located outside the boundary of the  
17 10-year floodplain or the site will be floodproofed;

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

26           (4) the design of the facility will prevent any compost

1 material from being placed within 5 feet of the water  
2 table, will adequately control runoff from the site, and  
3 will collect and manage any leachate that is generated on  
4 the site;

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

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

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

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

25 (n) The Agency shall issue permits jointly with the  
26 Department of Transportation for the dredging or deposit of

1 material in Lake Michigan in accordance with Section 18 of the  
2 Rivers, Lakes, and Streams Act.

3 (o) (Blank.)

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

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

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

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

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

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

26 (1) Checklists and guidance relating to the completion



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

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

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

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

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

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

24 (s) The Agency is authorized to prepare and distribute  
25 guidance documents relating to its administration of this  
26 Section and procedural rules implementing this Section.

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

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

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

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

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

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

1 from the Clean Air Act Permit Program, the Agency receives a  
2 complete application for the renewal of that permit, then all  
3 of the terms and conditions of the permit shall remain in  
4 effect until final administrative action has been taken on the  
5 application for the renewal of the permit.

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

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

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

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

1 municipality where CCR from the CCR surface impoundment will be  
2 permanently disposed. Such documents may be copied upon payment  
3 of the actual cost of reproduction during regular business  
4 hours of the local office.

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

8 (Source: P.A. 101-171, eff. 7-30-19; revised 9-12-19.)