



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by James H. Meyer

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9	from Ch. 111 1/2, par. 1009
415 ILCS 5/12	from Ch. 111 1/2, par. 1012
415 ILCS 5/39	from Ch. 111 1/2, par. 1039

Amends the Environmental Protection Act. Provides that the construction of any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution does not require a construction permit unless that equipment, facility, vehicle, vessel, or aircraft is subject to regulation under certain Sections of the federal Clean Air Act. Provides that the construction of any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to water pollution or designed to prevent water pollution does not require a construction or operation permit unless (i) the construction of the equipment, facility, vehicle, vessel, or aircraft will be funded in whole or in part by financial support from the State or the federal government or (ii) the equipment, facility, vehicle, vessel, or aircraft is for the purpose of the pretreatment of wastewater prior to discharge to a non-delegated publicly owned treatment works. Sets forth procedures by which the Environmental Protection Agency must: (i) allow a permit applicant to review and comment on a proposed draft permit; (ii) issue general permits that do not require individual applications for categories of similar sources or equipment, facilities, vessels, or aircraft; (iii) allow a permit applicant to select a permitting analyst to perform permit application reviews and drafting on behalf of the Agency; and (iv) provide, upon an applicant's request, an expedited review of a permit application. Effective immediately.

LRB093 18656 BDD 44383 b

1 AN ACT concerning environmental protection.

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 Sections 9, 12, and 39 as follows:

6 (415 ILCS 5/9) (from Ch. 111 1/2, par. 1009)

7 Sec. 9. Acts prohibited. No person shall:

8 (a) Cause or threaten or allow the discharge or emission of
9 any contaminant into the environment in any State so as to
10 cause or tend to cause air pollution in Illinois, either alone
11 or in combination with contaminants from other sources, or so
12 as to violate regulations or standards adopted by the Board
13 under this Act;

14 (b) Construct, install, or operate any equipment,
15 facility, vehicle, vessel, or aircraft capable of causing or
16 contributing to air pollution or designed to prevent air
17 pollution, of any type designated by Board regulations, without
18 a permit granted by the Agency, or in violation of any
19 conditions imposed by such permit; provided, however, that
20 construction permits shall not be required except for cases in
21 which (i) a person seeks to construct any equipment, facility,
22 vehicle, vessel, or aircraft capable of causing or contributing
23 to air pollution or designed to prevent air pollution, and that
24 equipment, facility, vehicle, vessel, or aircraft is subject to
25 regulation under Section 165 or 173 of the Clean Air Act, as
26 now or hereafter amended, or federal regulations adopted
27 pursuant thereto, or (ii) a person seeks federally enforceable
28 conditions to avoid being subject to regulation under Section
29 165 or 173 of the Clean Air Act, as now or hereafter amended,
30 or federal regulations adopted pursuant thereto. Even though
31 not required to do so, any person may apply for a construction
32 permit to construct any equipment, facility, vehicle, vessel,

1 or aircraft capable of causing or contributing to air pollution
2 or designed to prevent air pollution, in which case the Agency
3 must process the application in accordance with Section 39 of
4 this Act;

5 (c) Cause or allow the open burning of refuse, conduct any
6 salvage operation by open burning, or cause or allow the
7 burning of any refuse in any chamber not specifically designed
8 for the purpose and approved by the Agency pursuant to
9 regulations adopted by the Board under this Act; except that
10 the Board may adopt regulations permitting open burning of
11 refuse in certain cases upon a finding that no harm will result
12 from such burning, or that any alternative method of disposing
13 of such refuse would create a safety hazard so extreme as to
14 justify the pollution that would result from such burning;

15 (d) Sell, offer, or use any fuel or other article in any
16 areas in which the Board may by regulation forbid its sale,
17 offer, or use for reasons of air-pollution control;

18 (e) Use, cause or allow the spraying of loose asbestos for
19 the purpose of fireproofing or insulating any building or
20 building material or other constructions, or otherwise use
21 asbestos in such unconfined manner as to permit asbestos fibers
22 or particles to pollute the air;

23 (f) Commencing July 1, 1985, sell any used oil for burning
24 or incineration in any incinerator, boiler, furnace, burner or
25 other equipment unless such oil meets standards based on virgin
26 fuel oil or re-refined oil, as defined in ASTM D-396 or
27 specifications under VV-F-815C promulgated pursuant to the
28 federal Energy Policy and Conservation Act, and meets the
29 manufacturer's and current NFPA code standards for which such
30 incinerator, boiler, furnace, burner or other equipment was
31 approved, except that this prohibition does not apply to a sale
32 to a permitted used oil re-refining or reprocessing facility or
33 sale to a facility permitted by the Agency to burn or
34 incinerate such oil.

35 Nothing herein shall limit the effect of any section of
36 this Title with respect to any form of asbestos, or the

1 spraying of any form of asbestos, or limit the power of the
2 Board under this Title to adopt additional and further
3 regulations with respect to any form of asbestos, or the
4 spraying of any form of asbestos.

5 This Section shall not limit the burning of landscape waste
6 upon the premises where it is produced or at sites provided and
7 supervised by any unit of local government, except within any
8 county having a population of more than 400,000. Nothing in
9 this Section shall prohibit the burning of landscape waste for
10 agricultural purposes, habitat management (including but not
11 limited to forest and prairie reclamation), or firefighter
12 training. For the purposes of this Act, the burning of
13 landscape waste by production nurseries shall be considered to
14 be burning for agricultural purposes.

15 Any grain elevator located outside of a major population
16 area, as defined in Section 211.3610 of Title 35 of the
17 Illinois Administrative Code, shall be exempt from the
18 requirements of Section 212.462 of Title 35 of the Illinois
19 Administrative Code provided that the elevator: (1) does not
20 violate the prohibitions of subsection (a) of this Section or
21 have a certified investigation, as defined in Section 211.970
22 of Title 35 of the Illinois Administrative Code, on file with
23 the Agency and (2) is not required to obtain a Clean Air Act
24 Permit Program permit pursuant to Section 39.5.
25 Notwithstanding the above exemption, new stationary source
26 performance standards for grain elevators, established
27 pursuant to Section 9.1 of this Act and Section 111 of the
28 federal Clean Air Act, shall continue to apply to grain
29 elevators.

30 (Source: P.A. 88-488; 89-328, eff. 8-17-95; 89-491, eff.
31 6-21-96.)

32 (415 ILCS 5/12) (from Ch. 111 1/2, par. 1012)

33 Sec. 12. Actions prohibited. No person shall:

34 (a) Cause or threaten or allow the discharge of any
35 contaminants into the environment in any State so as to cause

1 or tend to cause water pollution in Illinois, either alone or
2 in combination with matter from other sources, or so as to
3 violate regulations or standards adopted by the Pollution
4 Control Board under this Act.

5 (b) Construct, install, or operate any equipment,
6 facility, vessel, or aircraft capable of causing or
7 contributing to water pollution, or designed to prevent water
8 pollution, of any type designated by Board regulations, without
9 a permit granted by the Agency, or in violation of any
10 conditions imposed by such permit; provided, however, that
11 construction or operating permits shall not be required except
12 for cases in which a person seeks to construct or operate any
13 equipment, facility, vehicle, vessel, or aircraft capable of
14 causing or contributing to water pollution or designed to
15 prevent water pollution, and:

16 (1) the construction of the equipment, facility,
17 vehicle, vessel, or aircraft will be funded in whole or in
18 part by financial support from the State or the federal
19 government; or

20 (2) the equipment, facility, vehicle, vessel, or
21 aircraft is for the purpose of the pretreatment of
22 wastewater prior to discharge to a non-delegated publicly
23 owned treatment works.

24 Even though not required to do so, any person may apply for a
25 construction or operating permit to for any equipment,
26 facility, vehicle, vessel, or aircraft capable of causing or
27 contributing to water pollution or designed to prevent water
28 pollution, in which case the Agency must process the
29 application in accordance with Section 39 of this Act.

30 (c) Increase the quantity or strength of any discharge of
31 contaminants into the waters, or construct or install any sewer
32 or sewage treatment facility or any new outlet for contaminants
33 into the waters of this State, without a permit granted by the
34 Agency.

35 (d) Deposit any contaminants upon the land in such place
36 and manner so as to create a water pollution hazard.

1 (e) Sell, offer, or use any article in any area in which
2 the Board has by regulation forbidden its sale, offer, or use
3 for reasons of water pollution control.

4 (f) Cause, threaten or allow the discharge of any
5 contaminant into the waters of the State, as defined herein,
6 including but not limited to, waters to any sewage works, or
7 into any well or from any point source within the State,
8 without an NPDES permit for point source discharges issued by
9 the Agency under Section 39(b) of this Act, or in violation of
10 any term or condition imposed by such permit, or in violation
11 of any NPDES permit filing requirement established under
12 Section 39(b), or in violation of any regulations adopted by
13 the Board or of any order adopted by the Board with respect to
14 the NPDES program.

15 No permit shall be required under this subsection and under
16 Section 39(b) of this Act for any discharge for which a permit
17 is not required under the Federal Water Pollution Control Act,
18 as now or hereafter amended, and regulations pursuant thereto.

19 For all purposes of this Act, a permit issued by the
20 Administrator of the United States Environmental Protection
21 Agency under Section 402 of the Federal Water Pollution Control
22 Act, as now or hereafter amended, shall be deemed to be a
23 permit issued by the Agency pursuant to Section 39(b) of this
24 Act. However, this shall not apply to the exclusion from the
25 requirement of an operating permit provided under Section
26 13(b) (i).

27 Compliance with the terms and conditions of any permit
28 issued under Section 39(b) of this Act shall be deemed
29 compliance with this subsection except that it shall not be
30 deemed compliance with any standard or effluent limitation
31 imposed for a toxic pollutant injurious to human health.

32 In any case where a permit has been timely applied for
33 pursuant to Section 39(b) of this Act but final administrative
34 disposition of such application has not been made, it shall not
35 be a violation of this subsection to discharge without such
36 permit unless the complainant proves that final administrative

1 disposition has not been made because of the failure of the
2 applicant to furnish information reasonably required or
3 requested in order to process the application.

4 (g) Cause, threaten or allow the underground injection of
5 contaminants without a UIC permit issued by the Agency under
6 Section 39(d) of this Act, or in violation of any term or
7 condition imposed by such permit, or in violation of any
8 regulations or standards adopted by the Board or of any order
9 adopted by the Board with respect to the UIC program.

10 No permit shall be required under this subsection and under
11 Section 39(d) of this Act for any underground injection of
12 contaminants for which a permit is not required under Part C of
13 the Safe Drinking Water Act (P.L. 93-523), as amended, unless a
14 permit is authorized or required under regulations adopted by
15 the Board pursuant to Section 13 of this Act.

16 (h) Introduce contaminants into a sewage works from any
17 nondomestic source except in compliance with the regulations
18 and standards adopted by the Board under this Act.

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

20 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

21 Sec. 39. Issuance of permits; procedures.

22 (a) When the Board has by regulation required a permit for
23 the construction, installation, or operation of any type of
24 facility, equipment, vehicle, vessel, or aircraft, the
25 applicant shall apply to the Agency for such permit and it
26 shall be the duty of the Agency to issue such a permit upon
27 proof by the applicant that the facility, equipment, vehicle,
28 vessel, or aircraft will not cause a violation of this Act or
29 of regulations hereunder. The Agency shall adopt such
30 procedures as are necessary to carry out its duties under this
31 Section. In making its determinations on permit applications
32 under this Section the Agency may consider prior adjudications
33 of noncompliance with this Act by the applicant that involved a
34 release of a contaminant into the environment. In granting
35 permits, the Agency may impose reasonable conditions

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

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

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

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

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

25 If there is no final action by the Agency within 90 days
26 after the filing of the application for permit, the applicant
27 may deem the permit issued; except that this time period shall
28 be extended to 180 days when (1) notice and opportunity for
29 public hearing are required by State or federal law or
30 regulation, (2) the application which was filed is for any
31 permit to develop a landfill subject to issuance pursuant to
32 this subsection, or (3) the application that was filed is for a
33 MSWLF unit required to issue public notice under subsection (p)
34 of Section 39. The 90-day and 180-day time periods for the
35 Agency to take final action do not apply to NPDES permit
36 applications under subsection (b) of this Section, to RCRA

1 permit applications under subsection (d) of this Section, or to
2 UIC permit applications under subsection (e) of this Section.

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

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

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

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

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

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

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

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

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

29 (c) Except for those facilities owned or operated by
30 sanitary districts organized under the Metropolitan Water
31 Reclamation District Act, no permit for the development or
32 construction of a new pollution control facility may be granted
33 by the Agency unless the applicant submits proof to the Agency
34 that the location of the facility has been approved by the
35 County Board of the county if in an unincorporated area, or the
36 governing body of the municipality when in an incorporated

1 area, in which the facility is to be located in accordance with
2 Section 39.2 of this Act.

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

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

36 In the case of a pollution control facility for which a

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

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

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

32 Before beginning construction on any new sewage treatment
33 plant or sludge drying site to be owned or operated by a
34 sanitary district organized under the Metropolitan Water
35 Reclamation District Act for which a new permit (rather than
36 the renewal or amendment of an existing permit) is required,

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

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

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

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

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

25 (4) the site has local zoning approval.

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

30 All RCRA permits shall contain those terms and conditions,
31 including but not limited to schedules of compliance, which may
32 be required to accomplish the purposes and provisions of this
33 Act. The Agency may include among such conditions standards and
34 other requirements established under this Act, Board
35 regulations, the Resource Conservation and Recovery Act of 1976
36 (P.L. 94-580), as amended, and regulations pursuant thereto,

1 and may include schedules for achieving compliance therewith as
2 soon as possible. The Agency shall require that a performance
3 bond or other security be provided as a condition for the
4 issuance of a RCRA permit.

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

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

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

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

30 All UIC permits shall contain those terms and conditions,
31 including but not limited to schedules of compliance, which may
32 be required to accomplish the purposes and provisions of this
33 Act. The Agency may include among such conditions standards and
34 other requirements established under this Act, Board
35 regulations, the Safe Drinking Water Act (P.L. 93-523), as
36 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 (f) In making any determination pursuant to Section 9.1 of
19 this Act:

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

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

34 (3) Following such notice, the Agency shall give the
35 applicant an opportunity for a hearing in accordance with
36 the provisions of Sections 10-25 through 10-60 of the

1 Illinois Administrative Procedure Act.

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
27 regulations promulgated by the Board hereunder. If the Agency
28 refuses to grant authorization under this Section, the
29 applicant may appeal as if the Agency refused to grant a
30 permit, pursuant to the provisions of subsection (a) of Section
31 40 of this Act. For purposes of this subsection (h), the term
32 "generator" has the meaning given in Section 3.205 of this Act,
33 unless: (1) the hazardous waste is treated, incinerated, or
34 partially recycled for reuse prior to disposal, in which case
35 the last person who treats, incinerates, or partially recycles
36 the hazardous waste prior to disposal is the generator; or (2)

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

5 (i) Before issuing any RCRA permit or any permit for a
6 waste storage site, sanitary landfill, waste disposal site,
7 waste transfer station, waste treatment facility, waste
8 incinerator, or any waste-transportation operation, the Agency
9 shall conduct an evaluation of the prospective owner's or
10 operator's prior experience in waste management operations.
11 The Agency may deny such a permit if the prospective owner or
12 operator or any employee or officer of the prospective owner or
13 operator has a history of:

14 (1) repeated violations of federal, State, or local
15 laws, regulations, standards, or ordinances in the
16 operation of waste management facilities or sites; or

17 (2) conviction in this or another State of any crime
18 which is a felony under the laws of this State, or
19 conviction of a felony in a federal court; or

20 (3) proof of gross carelessness or incompetence in
21 handling, storing, processing, transporting or disposing
22 of waste.

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

28 (k) A development permit issued under subsection (a) of
29 Section 39 for any facility or site which is required to have a
30 permit under subsection (d) of Section 21 shall expire at the
31 end of 2 calendar years from the date upon which it was issued,
32 unless within that period the applicant has taken action to
33 develop the facility or the site. In the event that review of
34 the conditions of the development permit is sought pursuant to
35 Section 40 or 41, or permittee is prevented from commencing
36 development of the facility or site by any other litigation

1 beyond the permittee's control, such two-year period shall be
2 deemed to begin on the date upon which such review process or
3 litigation is concluded.

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

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

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

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

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

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

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

36 The Agency shall issue permits for such facilities upon

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

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

8 (2) the facility is located outside the boundary of the
9 10-year floodplain or the site will be floodproofed;

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

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

23 (5) the operation of the facility will include
24 appropriate dust and odor control measures, limitations on
25 operating hours, appropriate noise control measures for
26 shredding, chipping and similar equipment, management
27 procedures for composting, containment and disposal of
28 non-compostable wastes, procedures to be used for
29 terminating operations at the site, and recordkeeping
30 sufficient to document the amount of materials received,
31 composted and otherwise disposed of; and

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

34 The Agency shall issue renewable permits of not longer than
35 10 years in duration for the composting of landscape wastes, as
36 defined in Section 3.155 of this Act, based on the above

1 requirements.

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

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

11 (o) (Blank.)

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

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

34 (2) The Agency shall accept written comments concerning the
35 permit application that are postmarked no later than 30 days
36 after the filing of the permit application, unless the time

1 period to accept comments is extended by the Agency.

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

17 (q) Upon request by an applicant for any permit sought
18 under Title X of this Act, the Agency shall provide the
19 applicant an opportunity to review and comment upon the
20 proposed draft permit. This opportunity for review and comment
21 must be made before any required public notice for the permit.
22 The Agency must consider comments made by the applicant and
23 may, as the Agency deems necessary, modify the proposed draft
24 permit. The applicant for the permit must agree to extend any
25 applicable statutory review period to accommodate the
26 requested review and comment period.

27 (r) The Agency shall, to the extent possible and consistent
28 with applicable State and federal laws, issue general permits
29 for categories of similar sources and equipment, facilities,
30 vessels, or aircraft. These permits shall be issued without
31 individual applications and shall conform to the applicable
32 requirements for the particular program for which the general
33 permit applies.

34 (s) Any permit applicant may elect to contract with a
35 permitting analyst to perform permit application reviews and
36 permit drafting on behalf of and under the direction of the

1 Agency concerning the applicable Agency program.

2 (1) Before entering into the contract with the analyst,
3 the permit applicant must notify the Agency of the analyst
4 to be selected. The Agency and the permit applicant shall
5 enter into a contract covering those essential terms as
6 defined by the Agency pursuant to Agency rulemaking.

7 (2) At a minimum, the contract with the analyst must
8 provide that the analyst shall submit any draft permits,
9 analyses, reports, or other associated work product
10 directly to the Agency, shall take his or her directions
11 for work assignments from the Agency, and shall perform the
12 assigned work on behalf of the Agency.

13 (3) Reasonable costs incurred by the Agency must be
14 paid by the permit applicant directly to the Agency in
15 accordance with the terms of the contract entered into
16 under item (1).

17 (4) In no event shall the analyst acting on behalf of
18 the Agency be an employee of the permit applicant or the
19 owner or operator of the facility or source or be an
20 employee of any other person the permit applicant has
21 contracted to provide services relative to the facility or
22 site.

23 (5) All permit application reviews and permit drafting
24 performed by the analyst shall be carried out in
25 conformance with the requirements of the applicable Agency
26 program.

27 (6) Only the Agency shall have the authority to
28 approve, disapprove, or approve with conditions a permit as
29 a result of the permit application review and permit
30 drafting performed by the analyst. Upon approving,
31 disapproving, or approving with conditions a permit, the
32 Agency shall notify the permit applicant in writing of its
33 decision. If the Agency disapproves a permit or approves a
34 permit with conditions, the Agency must provide the permit
35 applicant with a written explanation of the violations of
36 the Act that would be caused if the permit were approved.

1 (7) All reviews undertaken by the Agency of the work
2 product developed by the analyst shall be completed and the
3 decisions communicated to the permit applicant within 60
4 days after the request for review or approval. The permit
5 applicant may waive the deadline upon a request from the
6 Agency. If the Agency disapproves or approves with
7 conditions a permit or fails to issue a final decision
8 within the 60-day period and the permit applicant has not
9 agreed to a waiver of the deadline, the permit applicant
10 may, within 35 days, file an appeal to the Board. Appeals
11 to the Board shall be in the manner provided for the review
12 of permit decisions in Section 40 of this Act.

13 (t) An applicant for any permit sought under Title X of
14 this Act may request from the Agency an expedited review of
15 that permit application. Within a reasonable time, the Agency
16 shall respond in writing, indicating its approval or
17 disapproval of the request for expedited review. The applicant
18 for any approved expedited review shall pay to the Agency all
19 reasonable costs incurred by the Agency in its review of the
20 permit application. Prior to any Agency review, the applicant
21 shall make an advance partial payment to the Agency for
22 anticipated review costs in an amount requested by the Agency,
23 but not to exceed \$5,000 or one-half of the total anticipated
24 costs of the Agency, whichever is less. All amounts paid to the
25 Agency under this Section shall be deposited into the
26 Environmental Protection Permit and Inspection Fund. The
27 Agency may cease its expedited review under this Section if an
28 applicant fails to pay the Agency's review costs when due. An
29 applicant for any approved expedited review may withdraw the
30 request for expedited review at any time by providing the
31 Agency with written notification of its withdrawal; however,
32 the applicant shall be responsible to pay all expedited review
33 costs incurred by the Agency through the date of receipt of the
34 written notification of withdrawal.

35 (Source: P.A. 92-574, eff. 6-26-02; 93-575, eff. 1-1-04.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.