

1 AN ACT concerning pollution control.

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 22.51 and 39 as follows:

6 (415 ILCS 5/22.51)

7 Sec. 22.51. Clean Construction or Demolition Debris Fill
8 Operations.

9 (a) No person shall conduct any clean construction or
10 demolition debris fill operation in violation of this Act or
11 any regulations or standards adopted by the Board.

12 (b) (1) (A) Beginning 30 days after the effective date of
13 this amendatory Act of the 94th General Assembly but prior to
14 July 1, 2008, no person shall use clean construction or
15 demolition debris as fill material in a current or former
16 quarry, mine, or other excavation, unless they have applied for
17 an interim authorization from the Agency for the clean
18 construction or demolition debris fill operation.

19 (B) The Agency shall approve an interim authorization upon
20 its receipt of a written application for the interim
21 authorization that is signed by the site owner and the site
22 operator, or their duly authorized agent, and that contains the
23 following information: (i) the location of the site where the
24 clean construction or demolition debris fill operation is
25 taking place, (ii) the name and address of the site owner,
26 (iii) the name and address of the site operator, and (iv) the
27 types and amounts of clean construction or demolition debris
28 being used as fill material at the site.

29 (C) The Agency may deny an interim authorization if the
30 site owner or the site operator, or their duly authorized
31 agent, fails to provide to the Agency the information listed in
32 subsection (b) (1) (B) of this Section. Any denial of an interim

1 authorization shall be subject to appeal to the Board in
2 accordance with the procedures of Section 40 of this Act.

3 (D) No person shall use clean construction or demolition
4 debris as fill material in a current or former quarry, mine, or
5 other excavation for which the Agency has denied interim
6 authorization under subsection (b)(1)(C) of this Section. The
7 Board may stay the prohibition of this subsection (D) during
8 the pendency of an appeal of the Agency's denial of the interim
9 authorization brought under subsection (b)(1)(C) of this
10 Section.

11 (2) Beginning September 1, 2006, owners and operators of
12 clean construction or demolition debris fill operations shall,
13 in accordance with a schedule prescribed by the Agency, submit
14 to the Agency applications for the permits required under this
15 Section. The Agency shall notify owners and operators in
16 writing of the due date for their permit application. The due
17 date shall be no less than 90 days after the date of the
18 Agency's written notification. Owners and operators who do not
19 receive a written notification from the Agency by October 1,
20 2007, shall submit a permit application to the Agency by
21 January 1, 2008. The interim authorization of owners and
22 operators who fail to submit a permit application to the Agency
23 by the permit application's due date shall terminate on (i) the
24 due date established by the Agency if the owner or operator
25 received a written notification from the Agency prior to
26 October 1, 2007, or (ii) or January 1, 2008, if the owner or
27 operator did not receive a written notification from the Agency
28 by October 1, 2007.

29 (3) On and after July 1, 2008, no person shall use clean
30 construction or demolition debris as fill material in a current
31 or former quarry, mine, or other excavation without a permit
32 granted by the Agency for the clean construction or demolition
33 debris fill operation or in violation of any conditions imposed
34 by such permit, including periodic reports and full access to
35 adequate records and the inspection of facilities, as may be
36 necessary to assure compliance with this Act and with Board

1 regulations and standards adopted under this Act.

2 (4) This subsection (b) does not apply to:

3 (A) the use of clean construction or demolition debris
4 as fill material in a current or former quarry, mine, or
5 other excavation located on the site where the clean
6 construction or demolition debris was generated; ~~or~~

7 (B) the use of clean construction or demolition debris
8 as fill material in an excavation other than a current or
9 former quarry or mine if this use complies with Illinois
10 Department of Transportation specifications; or ~~or~~

11 (C) current or former quarries, mines, and other
12 excavations that do not use clean construction or
13 demolition debris as fill material.

14 (c) In accordance with Title VII of this Act, the Board may
15 adopt regulations to promote the purposes of this Section. The
16 Agency shall consult with the mining and construction
17 industries during the development of any regulations to promote
18 the purposes of this Section.

19 (1) No later than December 15, 2005, the Agency shall
20 propose to the Board, and no later than September 1, 2006,
21 the Board shall adopt, regulations for the use of clean
22 construction or demolition debris as fill material in
23 current and former quarries, mines, and other excavations.
24 Such regulations shall include, but shall not be limited
25 to, standards for clean construction or demolition debris
26 fill operations and the submission and review of permits
27 required under this Section.

28 (2) Until the Board adopts rules under subsection
29 (c)(1) of this Section, all persons using clean
30 construction or demolition debris as fill material in a
31 current or former quarry, mine, or other excavation shall:

32 (A) Assure that only clean construction or
33 demolition debris is being used as fill material by
34 screening each truckload of material received using a
35 device approved by the Agency that detects volatile
36 organic compounds. Such devices may include, but are

1 not limited to, photo ionization detectors. All
2 screening devices shall be operated and maintained in
3 accordance with manufacturer's specifications.
4 Unacceptable fill material shall be rejected from the
5 site; and

6 (B) Retain for a minimum of 3 years the following
7 information:

8 (i) The name of the hauler, the name of the
9 generator, and place of origin of the debris or
10 soil;

11 (ii) The approximate weight or volume of the
12 debris or soil; and

13 (iii) The date the debris or soil was received.

14 (d) This Section applies only to clean construction or
15 demolition debris that is not considered "waste" as provided in
16 Section 3.160 of this Act.

17 (e) For purposes of a clean construction or demolition
18 debris fill operation:

19 (1) The term "operator" means a person responsible for
20 the operation and maintenance of a clean construction or
21 demolition debris fill operation.

22 (2) The term "owner" means a person who has any direct
23 or indirect interest in a clean construction or demolition
24 debris fill operation or in land on which a person operates
25 and maintains a clean construction or demolition debris
26 fill operation. A "direct or indirect interest" does not
27 include the ownership of publicly traded stock. The "owner"
28 is the "operator" if there is no other person who is
29 operating and maintaining a clean construction or
30 demolition debris fill operation.

31 (Source: P.A. 94-272, eff. 7-19-05.)

32 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

33 Sec. 39. Issuance of permits; procedures.

34 (a) When the Board has by regulation required a permit for
35 the construction, installation, or operation of any type of

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

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

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

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

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

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

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

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

32 After June 30, 1998, operating permits issued under this
33 Section by the Agency for sources of air pollution that are not
34 subject to Section 39.5 of this Act and are not required to
35 have a federally enforceable State operating permit shall be
36 required to be renewed only upon written request by the Agency

1 consistent with applicable provisions of this Act and its
2 rules. Such operating permits shall expire 180 days after the
3 date of such a request. Before July 1, 1998, the Board shall
4 revise its rules for the existing State air pollution operating
5 permit program consistent with this paragraph and shall adopt
6 rules that require a source to demonstrate that it qualifies
7 for a permit under this paragraph.

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

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

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

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

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

35 The Agency, subject to any conditions which may be
36 prescribed by Board regulations, may issue NPDES permits to

1 allow discharges beyond deadlines established by this Act or by
2 regulations of the Board without the requirement of a variance,
3 subject to the Federal Water Pollution Control Act, as now or
4 hereafter amended, and regulations pursuant thereto.

5 (c) Except for those facilities owned or operated by
6 sanitary districts organized under the Metropolitan Water
7 Reclamation District Act, no permit for the development or
8 construction of a new pollution control facility may be granted
9 by the Agency unless the applicant submits proof to the Agency
10 that the location of the facility has been approved by the
11 County Board of the county if in an unincorporated area, or the
12 governing body of the municipality when in an incorporated
13 area, in which the facility is to be located in accordance with
14 Section 39.2 of this Act.

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

31 Beginning August 20, 1993, if the pollution control
32 facility consists of a hazardous or solid waste disposal
33 facility for which the proposed site is located in an
34 unincorporated area of a county with a population of less than
35 100,000 and includes all or a portion of a parcel of land that
36 was, on April 1, 1993, adjacent to a municipality having a

1 population of less than 5,000, then the local siting review
2 required under this subsection (c) in conjunction with any
3 permit applied for after that date shall be performed by the
4 governing body of that adjacent municipality rather than the
5 county board of the county in which the proposed site is
6 located; and for the purposes of that local siting review, any
7 references in this Act to the county board shall be deemed to
8 mean the governing body of that adjacent municipality;
9 provided, however, that the provisions of this paragraph shall
10 not apply to any proposed site which was, on April 1, 1993,
11 owned in whole or in part by another municipality.

12 In the case of a pollution control facility for which a
13 development permit was issued before November 12, 1981, if an
14 operating permit has not been issued by the Agency prior to
15 August 31, 1989 for any portion of the facility, then the
16 Agency may not issue or renew any development permit nor issue
17 an original operating permit for any portion of such facility
18 unless the applicant has submitted proof to the Agency that the
19 location of the facility has been approved by the appropriate
20 county board or municipal governing body pursuant to Section
21 39.2 of this Act.

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

36 Except for those facilities owned or operated by sanitary

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

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

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

24 (1) the municipal waste transfer station was in
25 existence on or before January 1, 1979 and was in
26 continuous operation from January 1, 1979 to January 1,
27 1993;

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

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

1 (4) the site has local zoning approval.

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

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

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

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

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

1 permit explaining the basis for its decision.

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

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

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

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

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

32 (1) The Agency shall have authority to make the
33 determination of any question required to be determined by
34 the Clean Air Act, as now or hereafter amended, this Act,
35 or the regulations of the Board, including the
36 determination of the Lowest Achievable Emission Rate,

1 Maximum Achievable Control Technology, or Best Available
2 Control Technology, consistent with the Board's
3 regulations, if any.

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

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

14 (g) The Agency shall include as conditions upon all permits
15 issued for hazardous waste disposal sites such restrictions
16 upon the future use of such sites as are reasonably necessary
17 to protect public health and the environment, including
18 permanent prohibition of the use of such sites for purposes
19 which may create an unreasonable risk of injury to human health
20 or to the environment. After administrative and judicial
21 challenges to such restrictions have been exhausted, the Agency
22 shall file such restrictions of record in the Office of the
23 Recorder of the county in which the hazardous waste disposal
24 site is located.

25 (h) A hazardous waste stream may not be deposited in a
26 permitted hazardous waste site unless specific authorization
27 is obtained from the Agency by the generator and disposal site
28 owner and operator for the deposit of that specific hazardous
29 waste stream. The Agency may grant specific authorization for
30 disposal of hazardous waste streams only after the generator
31 has reasonably demonstrated that, considering technological
32 feasibility and economic reasonableness, the hazardous waste
33 cannot be reasonably recycled for reuse, nor incinerated or
34 chemically, physically or biologically treated so as to
35 neutralize the hazardous waste and render it nonhazardous. In
36 granting authorization under this Section, the Agency may

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

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

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

34 (2) conviction in this or another State of any crime
35 which is a felony under the laws of this State, or
36 conviction of a felony in a federal court; or conviction in

1 this or another state or federal court of any of the
2 following crimes: forgery, official misconduct, bribery,
3 perjury, or knowingly submitting false information under
4 any environmental law, regulation, or permit term or
5 condition; or

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

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

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

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

1 the conditions of the development permit is sought pursuant to
2 Section 40 or 41, or permittee is prevented from commencing
3 development of the facility or site by any other litigation
4 beyond the permittee's control, such two-year period shall be
5 deemed to begin on the date upon which such review process or
6 litigation is concluded.

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

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

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

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

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

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

34 If no final action is taken by the Agency within 90 days
35 after the filing of the application for permit, the applicant
36 may deem the permit issued. Any applicant for a permit may

1 waive the 90 day limitation by filing a written statement with
2 the Agency.

3 The Agency shall issue permits for such facilities upon
4 receipt of an application that includes a legal description of
5 the site, a topographic map of the site drawn to the scale of
6 200 feet to the inch or larger, a description of the operation,
7 including the area served, an estimate of the volume of
8 materials to be processed, and documentation that:

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

11 (2) the facility is located outside the boundary of the
12 10-year floodplain or the site will be floodproofed;

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

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

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

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

1 The Agency shall issue renewable permits of not longer than
2 10 years in duration for the composting of landscape wastes, as
3 defined in Section 3.155 of this Act, based on the above
4 requirements.

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

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

14 (o) (Blank.)

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

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

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

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

20 (Source: P.A. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05.)