

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 10. The Environmental Protection Act is amended by  
5 changing Sections 3.160, 21.3, 22.44, 34, 39, 42, and 58.8 and  
6 by adding Sections 22.15a, 22.50, 22.51, and 22.52 as follows:

7 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

8 Sec. 3.160. Construction or demolition debris.

9 (a) General construction or demolition debris" means  
10 non-hazardous, uncontaminated materials resulting from the  
11 construction, remodeling, repair, and demolition of utilities,  
12 structures, and roads, limited to the following: bricks,  
13 concrete, and other masonry materials; soil; rock; wood,  
14 including non-hazardous painted, treated, and coated wood and  
15 wood products; wall coverings; plaster; drywall; plumbing  
16 fixtures; non-asbestos insulation; roofing shingles and other  
17 roof coverings; reclaimed asphalt pavement; glass; plastics  
18 that are not sealed in a manner that conceals waste; electrical  
19 wiring and components containing no hazardous substances; and  
20 piping or metals incidental to any of those materials.

21 General construction or demolition debris does not include  
22 uncontaminated soil generated during construction, remodeling,  
23 repair, and demolition of utilities, structures, and roads  
24 provided the uncontaminated soil is not commingled with any  
25 general construction or demolition debris or other waste.

26 To the extent allowed by federal law, uncontaminated  
27 concrete with protruding rebar shall be considered clean  
28 construction or demolition debris and shall not be considered  
29 "waste" if it is separated or processed and returned to the  
30 economic mainstream in the form of raw materials or products  
31 within 4 years of its generation, if it is not speculatively  
32 accumulated and, if used as a fill material, it is used in

1 accordance with item (i) in subsection (b) of this Section  
2 within 30 days of its generation.

3 (b) "Clean construction or demolition debris" means  
4 uncontaminated broken concrete without protruding metal bars,  
5 bricks, rock, stone, reclaimed asphalt pavement, or soil  
6 generated from construction or demolition activities.

7 Clean construction or demolition debris does not include  
8 uncontaminated soil generated during construction, remodeling,  
9 repair, and demolition of utilities, structures, and roads  
10 provided the uncontaminated soil is not commingled with any  
11 clean construction or demolition debris or other waste.

12 To the extent allowed by federal law, clean construction or  
13 demolition debris shall not be considered "waste" if it is (i)  
14 used as fill material outside of a setback zone if the fill is  
15 placed no higher than the highest point of elevation existing  
16 prior to the filling immediately adjacent to the fill area, and  
17 if covered by sufficient uncontaminated soil to support  
18 vegetation within 30 days of the completion of filling or if  
19 covered by a road or structure, or (ii) separated or processed  
20 and returned to the economic mainstream in the form of raw  
21 materials or products, if it is not speculatively accumulated  
22 and, if used as a fill material, it is used in accordance with  
23 item (i) within 30 days of its generation, or (iii) solely  
24 broken concrete without protruding metal bars used for erosion  
25 control, or (iv) generated from the construction or demolition  
26 of a building, road, or other structure and used to construct,  
27 on the site where the construction or demolition has taken  
28 place, a manmade functional structure not to exceed 20 feet  
29 above the highest point of elevation of the property  
30 immediately adjacent to the new manmade functional structure as  
31 that elevation existed prior to the creation of that new  
32 structure, provided that the structure shall be covered with  
33 sufficient soil materials to sustain vegetation or by a road or  
34 structure, and further provided that no such structure shall be  
35 constructed within a home rule municipality with a population  
36 over 500,000 without the consent of the municipality.

1 (Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.)

2 (415 ILCS 5/21.3) (from Ch. 111 1/2, par. 1021.3)

3 Sec. 21.3. Environmental reclamation lien.

4 (a) All costs and damages for which a person is liable to  
5 the State of Illinois under Section 22.2, 22.15a, 55.3, or  
6 57.12 ~~and Section 22.18~~ shall constitute an environmental  
7 reclamation lien in favor of the State of Illinois upon all  
8 real property and rights to such property which:

9 (1) belong to such person; and

10 (2) are subject to or affected by a removal or remedial  
11 action under Section 22.2 or investigation, preventive  
12 action, corrective action, or enforcement action under  
13 Section 22.15a, 55.3, or 57.12 ~~22.18~~.

14 (b) An environmental reclamation lien shall continue until  
15 the liability for the costs and damages, or a judgment against  
16 the person arising out of such liability, is satisfied.

17 (c) An environmental reclamation lien shall be effective  
18 upon the filing by the Agency of a Notice of Environmental  
19 Reclamation Lien with the recorder or the registrar of titles  
20 of the county in which the real property lies. The Agency shall  
21 not file an environmental reclamation lien, and no such lien  
22 shall be valid, unless the Agency has sent notice pursuant to  
23 subsection (q) of Section 4, subsection (c) of Section 22.15a,  
24 subsection (d) of Section 55.3, or subsection (c) of Section  
25 57.12 of this Act to owners of the real property. Nothing in  
26 this Section shall be construed to give the Agency's lien a  
27 preference over the rights of any bona fide purchaser or  
28 mortgagee or other lienholder (not including the United States  
29 when holding an unfiled lien) arising prior to the filing of a  
30 notice of environmental reclamation lien in the office of the  
31 recorder or registrar of titles of the county in which the  
32 property subject to the lien is located. For purposes of this  
33 Section, the term "bona fide" shall not include any mortgage of  
34 real or personal property or any other credit transaction that  
35 results in the mortgagee or the holder of the security acting

1 as trustee for unsecured creditors of the liable person  
2 mentioned in the notice of lien who executed such chattel or  
3 real property mortgage or the document evidencing such credit  
4 transaction. Such lien shall be inferior to the lien of general  
5 taxes, special assessments and special taxes heretofore or  
6 hereafter levied by any political subdivision of this State.

7 (d) The environmental reclamation lien shall not exceed the  
8 amount of expenditures as itemized on the Affidavit of  
9 Expenditures attached to and filed with the Notice of  
10 Environmental Reclamation Lien. The Affidavit of Expenditures  
11 may be amended if additional costs or damages are incurred.

12 (e) Upon filing of the Notice of Environmental Reclamation  
13 Lien a copy with attachments shall be served upon the owners of  
14 the real property. Notice of such service shall be served on  
15 all lienholders of record as of the date of filing.

16 (f) (Blank) ~~Within 60 days after initiating response or~~  
17 ~~remedial action at the site under Section 22.2 or 22.18, the~~  
18 ~~Agency shall file a Notice of Response Action in Progress. The~~  
19 ~~Notice shall be filed with the recorder or registrar of titles~~  
20 ~~of the county in which the real property lies.~~

21 (g) In addition to any other remedy provided by the laws of  
22 this State, the Agency may foreclose in the circuit court an  
23 environmental reclamation lien on real property for any costs  
24 or damages imposed under Section 22.2, 22.15a, 55.3, or 57.12  
25 ~~or Section 22.18~~ to the same extent and in the same manner as  
26 in the enforcement of other liens. The process, practice and  
27 procedure for such foreclosure shall be the same as provided in  
28 Article XV of the Code of Civil Procedure. Nothing in this  
29 Section shall affect the right of the State of Illinois to  
30 bring an action against any person to recover all costs and  
31 damages for which such person is liable under Section 22.2,  
32 22.15a, 55.3, or 57.12 ~~or Section 22.18~~.

33 (h) Any liability to the State under Section 22.2, 22.15a,  
34 55.3, or 57.12 ~~or Section 22.18~~ shall constitute a debt to the  
35 State. Interest on such debt shall begin to accrue at a rate of  
36 12% per annum from the date of the filing of the Notice of

1 Environmental Reclamation Lien under paragraph (c). Accrued  
2 interest shall be included as a cost incurred by the State of  
3 Illinois under Section 22.2, 22.15a, 55.3, or 57.12 ~~or Section~~  
4 ~~22.18~~.

5 (i) "Environmental reclamation lien" means a lien  
6 established under this Section.

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

8 (415 ILCS 5/22.15a new)

9 Sec. 22.15a. Open dumping cleanup program.

10 (a) Upon making a finding that open dumping poses a threat  
11 to the public health or to the environment, the Agency may take  
12 whatever preventive or corrective action is necessary or  
13 appropriate to end that threat. This preventive or corrective  
14 action may consist of any or all of the following:

15 (1) Removing waste from the site.

16 (2) Removing soil and water contamination that is  
17 related to waste at the site.

18 (3) Installing devices to monitor and control  
19 groundwater and surface water contamination that is  
20 related to waste at the site.

21 (4) Taking any other actions that are authorized by  
22 Board regulations.

23 (b) Subject to the availability of appropriated funds, the  
24 Agency may undertake a consensual removal action for the  
25 removal of up to 20 cubic yards of waste at no cost to the owner  
26 of property where open dumping has occurred in accordance with  
27 the following requirements:

28 (1) Actions under this subsection must be taken  
29 pursuant to a written agreement between the Agency and the  
30 owner of the property.

31 (2) The written agreement must at a minimum specify:

32 (A) that the owner relinquishes any claim of an  
33 ownership interest in any waste that is removed and in  
34 any proceeds from its sale;

35 (B) that waste will no longer be allowed to

1 accumulate at the site in a manner that constitutes  
2 open dumping;

3 (C) that the owner will hold harmless the Agency  
4 and any employee or contractor used by the Agency to  
5 effect the removal for any damage to property incurred  
6 during the course of action under this subsection,  
7 except for damage incurred by gross negligence or  
8 intentional misconduct; and

9 (D) any conditions imposed upon or assistance  
10 required from the owner to assure that the waste is so  
11 located or arranged as to facilitate its removal.

12 (3) The Agency may establish by rule the conditions and  
13 priorities for the removal of waste under this subsection  
14 (b).

15 (4) The Agency must prescribe the form of written  
16 agreements under this subsection (b).

17 (c) The Agency may provide notice to the owner of property  
18 where open dumping has occurred whenever the Agency finds that  
19 open dumping poses a threat to public health or the  
20 environment. The notice provided by the Agency must include the  
21 identified preventive or corrective action and must provide an  
22 opportunity for the owner to perform the action.

23 (d) In accordance with constitutional limitations, the  
24 Agency may enter, at all reasonable times, upon any private or  
25 public property for the purpose of taking any preventive or  
26 corrective action that is necessary and appropriate under this  
27 Section whenever the Agency finds that open dumping poses a  
28 threat to the public health or to the environment.

29 (e) Notwithstanding any other provision or rule of law and  
30 subject only to the defenses set forth in subsection (g) of  
31 this Section, the following persons shall be liable for all  
32 costs of corrective or preventive action incurred by the State  
33 of Illinois as a result of open dumping, including the  
34 reasonable costs of collection:

35 (1) any person with an ownership interest in property  
36 where open dumping has occurred;

1           (2) any person with an ownership or leasehold interest  
2           in the property at the time the open dumping occurred;

3           (3) any person who transported waste that was open  
4           dumped at the property; and

5           (4) any person who open dumped at the property.

6           Any moneys received by the Agency under this subsection (e)  
7           must be deposited into the Subtitle D Management Fund.

8           (f) Any person liable to the Agency for costs incurred  
9           under subsection (e) of this Section may be liable to the State  
10           of Illinois for punitive damages in an amount at least equal to  
11           and not more than 3 times the costs incurred by the State if  
12           that person failed, without sufficient cause, to take  
13           preventive or corrective action under the notice issued under  
14           subsection (c) of this Section.

15           (g) There shall be no liability under subsection (e) of  
16           this Section for a person otherwise liable who can establish by  
17           a preponderance of the evidence that the hazard created by the  
18           open dumping was caused solely by:

19           (1) an act of God;

20           (2) an act of war; or

21           (3) an act or omission of a third party other than an  
22           employee or agent and other than a person whose act or  
23           omission occurs in connection with a contractual  
24           relationship with the person otherwise liable. For the  
25           purposes of this paragraph, "contractual relationship"  
26           includes, but is not limited to, land contracts, deeds, and  
27           other instruments transferring title or possession, unless  
28           the real property upon which the open dumping occurred was  
29           acquired by the defendant after the open dumping occurred  
30           and one or more of the following circumstances is also  
31           established by a preponderance of the evidence:

32           (A) at the time the defendant acquired the  
33           property, the defendant did not know and had no reason  
34           to know that any open dumping had occurred and the  
35           defendant undertook, at the time of acquisition, all  
36           appropriate inquiries into the previous ownership and

1 uses of the property consistent with good commercial or  
2 customary practice in an effort to minimize liability;

3 (B) the defendant is a government entity that  
4 acquired the property by escheat or through any other  
5 involuntary transfer or acquisition, or through the  
6 exercise of eminent domain authority by purchase or  
7 condemnation; or

8 (C) the defendant acquired the property by  
9 inheritance or bequest.

10 (h) Nothing in this Section shall affect or modify the  
11 obligations or liability of any person under any other  
12 provision of this Act, federal law, or State law, including the  
13 common law, for injuries, damages, or losses resulting from the  
14 circumstances leading to Agency action under this Section.

15 (i) The costs and damages provided for in this Section may  
16 be imposed by the Board in an action brought before the Board  
17 in accordance with Title VIII of this Act, except that  
18 subsection (c) of Section 33 of this Act shall not apply to any  
19 such action.

20 (j) Except for willful and wanton misconduct, neither the  
21 State, the Director, nor any State employee shall be liable for  
22 any damages or injuries arising out of or resulting from any  
23 act or omission occurring under the provisions of this  
24 amendatory Act of the 94th General Assembly.

25 (k) Before taking preventive or corrective action under  
26 this Section, the Agency shall consider whether the open  
27 dumping:

28 (1) occurred on public land;

29 (2) occurred on a public right-of-way;

30 (3) occurred in a park or natural area;

31 (4) occurred in an environmental justice area;

32 (5) was caused or allowed by persons other than the  
33 owner of the site;

34 (6) creates the potential for groundwater  
35 contamination;

36 (7) creates the potential for surface water

1       contamination;  
2       (8) creates the potential for disease vectors;  
3       (9) creates a fire hazard; or  
4       (10) preventive or corrective action by the Agency has  
5       been requested by a unit of local government.

6       In taking preventive or corrective action under this Section,  
7       the Agency shall not expend more than \$50,000 at any single  
8       site in response to open dumping unless: (i) the Director  
9       determines that the open dumping poses an imminent and  
10       substantial endangerment to the public health or welfare or the  
11       environment; or (ii) the General Assembly appropriates more  
12       than \$50,000 for preventive or corrective action in response to  
13       the open dumping, in which case the Agency may spend the  
14       appropriated amount.

15           (415 ILCS 5/22.44)

16           Sec. 22.44. Subtitle D management fees.

17           (a) There is created within the State treasury a special  
18       fund to be known as the "Subtitle D Management Fund"  
19       constituted from the fees collected by the State under this  
20       Section.

21           (b) The Agency shall assess and collect a fee in the amount  
22       set forth in this subsection from the owner or operator of each  
23       sanitary landfill permitted or required to be permitted by the  
24       Agency to dispose of solid waste if the sanitary landfill is  
25       located off the site where the waste was produced and if the  
26       sanitary landfill is owned, controlled, and operated by a  
27       person other than the generator of the waste. The Agency shall  
28       deposit all fees collected under this subsection into the  
29       Subtitle D Management Fund. If a site is contiguous to one or  
30       more landfills owned or operated by the same person, the  
31       volumes permanently disposed of by each landfill shall be  
32       combined for purposes of determining the fee under this  
33       subsection.

34           (1) If more than 150,000 cubic yards of non-hazardous  
35       solid waste is permanently disposed of at a site in a

1 calendar year, the owner or operator shall either pay a fee  
2 of 10.1 cents per cubic yard or, alternatively, the owner  
3 or operator may weigh the quantity of the solid waste  
4 permanently disposed of with a device for which  
5 certification has been obtained under the Weights and  
6 Measures Act and pay a fee of 22 cents per ton of waste  
7 permanently disposed of.

8 (2) If more than 100,000 cubic yards, but not more than  
9 150,000 cubic yards, of non-hazardous waste is permanently  
10 disposed of at a site in a calendar year, the owner or  
11 operator shall pay a fee of \$7,020.

12 (3) If more than 50,000 cubic yards, but not more than  
13 100,000 cubic yards, of non-hazardous solid waste is  
14 permanently disposed of at a site in a calendar year, the  
15 owner or operator shall pay a fee of \$3,120.

16 (4) If more than 10,000 cubic yards, but not more than  
17 50,000 cubic yards, of non-hazardous solid waste is  
18 permanently disposed of at a site in a calendar year, the  
19 owner or operator shall pay a fee of \$975.

20 (5) If not more than 10,000 cubic yards of  
21 non-hazardous solid waste is permanently disposed of at a  
22 site in a calendar year, the owner or operator shall pay a  
23 fee of \$210.

24 (c) The fee under subsection (b) shall not apply to any of  
25 the following:

26 (1) Hazardous waste.

27 (2) Pollution control waste.

28 (3) Waste from recycling, reclamation, or reuse  
29 processes that have been approved by the Agency as being  
30 designed to remove any contaminant from wastes so as to  
31 render the wastes reusable, provided that the process  
32 renders at least 50% of the waste reusable.

33 (4) Non-hazardous solid waste that is received at a  
34 sanitary landfill and composted or recycled through a  
35 process permitted by the Agency.

36 (5) Any landfill that is permitted by the Agency to

1 receive only demolition or construction debris or  
2 landscape waste.

3 (d) The Agency shall establish rules relating to the  
4 collection of the fees authorized by this Section. These rules  
5 shall include, but not be limited to the following:

6 (1) Necessary records identifying the quantities of  
7 solid waste received or disposed.

8 (2) The form and submission of reports to accompany the  
9 payment of fees to the Agency.

10 (3) The time and manner of payment of fees to the  
11 Agency, which payments shall not be more often than  
12 quarterly.

13 (4) Procedures setting forth criteria establishing  
14 when an owner or operator may measure by weight or volume  
15 during any given quarter or other fee payment period.

16 (e) Fees collected under this Section shall be in addition  
17 to any other fees collected under any other Section.

18 (f) The Agency shall not refund any fee paid to it under  
19 this Section.

20 (g) Pursuant to appropriation, all moneys in the Subtitle D  
21 Management Fund shall be used by the Agency to administer the  
22 United States Environmental Protection Agency's Subtitle D  
23 Program provided in Sections 4004 and 4010 of the Resource  
24 Conservation and Recovery Act of 1976 (P.L. 94-580) as it  
25 relates to a municipal solid waste landfill program in Illinois  
26 and to fund a delegation of inspecting, investigating, and  
27 enforcement functions, within the municipality only, pursuant  
28 to subsection (r) of Section 4 of this Act to a municipality  
29 having a population of more than 1,000,000 inhabitants. The  
30 Agency shall execute a delegation agreement pursuant to  
31 subsection (r) of Section 4 of this Act with a municipality  
32 having a population of more than 1,000,000 inhabitants within  
33 90 days of September 13, 1993 and shall on an annual basis  
34 distribute from the Subtitle D Management Fund to that  
35 municipality no less than \$150,000. Pursuant to appropriation,  
36 moneys in the Subtitle D Management Fund may also be used by

1 the Agency for activities conducted under Section 22.15a of  
2 this Act.

3 (Source: P.A. 92-574, eff. 6-26-02; 93-32, eff. 7-1-03.)

4 (415 ILCS 5/22.50 new)

5 Sec. 22.50. Compliance with land use limitations. No  
6 person shall use, or cause or allow the use of, any site for  
7 which a land use limitation has been imposed under this Act in  
8 a manner inconsistent with the land use limitation unless  
9 further investigation or remedial action has been conducted  
10 that documents the attainment of remedial objectives  
11 appropriate for the new land use and a new closure letter has  
12 been obtained from the Agency and recorded in the chain of  
13 title for the site. For the purpose of this Section, the term  
14 "land use limitation" shall include, but shall not be limited  
15 to, institutional controls and engineered barriers imposed  
16 under this Act and the regulations adopted under this Act. For  
17 the purposes of this Section, the term "closure letter" shall  
18 include, but shall not be limited to, No Further Remediation  
19 Letters issued under Titles XVI and XVII of this Act and the  
20 regulations adopted under those Titles.

21 (415 ILCS 5/22.51 new)

22 Sec. 22.51. Clean Construction or Demolition Debris Fill  
23 Operations.

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

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

34 (B) The Agency shall approve an interim authorization upon

1 its receipt of a written application for the interim  
2 authorization that is signed by the site owner and the site  
3 operator, or their duly authorized agent, and that contains the  
4 following information: (i) the location of the site where the  
5 clean construction or demolition debris fill operation is  
6 taking place, (ii) the name and address of the site owner,  
7 (iii) the name and address of the site operator, and (iv) the  
8 types and amounts of clean construction or demolition debris  
9 being used as fill material at the site.

10 (C) The Agency may deny an interim authorization if the  
11 site owner or the site operator, or their duly authorized  
12 agent, fails to provide to the Agency the information listed in  
13 subsection (b) (1) (B) of this Section. Any denial of an interim  
14 authorization shall be subject to appeal to the Board in  
15 accordance with the procedures of Section 40 of this Act.

16 (D) No person shall use clean construction or demolition  
17 debris as fill material in a current or former quarry, mine, or  
18 other excavation for which the Agency has denied interim  
19 authorization under subsection (b) (1) (C) of this Section. The  
20 Board may stay the prohibition of this subsection (D) during  
21 the pendency of an appeal of the Agency's denial of the interim  
22 authorization brought under subsection (b) (1) (C) of this  
23 Section.

24 (2) Beginning September 1, 2006, owners and operators of  
25 clean construction or demolition debris fill operations shall,  
26 in accordance with a schedule prescribed by the Agency, submit  
27 to the Agency applications for the permits required under this  
28 Section. The Agency shall notify owners and operators in  
29 writing of the due date for their permit application. The due  
30 date shall be no less than 90 days after the date of the  
31 Agency's written notification. Owners and operators who do not  
32 receive a written notification from the Agency by October 1,  
33 2007, shall submit a permit application to the Agency by  
34 January 1, 2008. The interim authorization of owners and  
35 operators who fail to submit a permit application to the Agency  
36 by the permit application's due date shall terminate on (i) the

1 due date established by the Agency if the owner or operator  
2 received a written notification from the Agency prior to  
3 October 1, 2007, or (ii) or January 1, 2008, if the owner or  
4 operator did not receive a written notification from the Agency  
5 by October 1, 2007.

6 (3) On and after July 1, 2008, no person shall use clean  
7 construction or demolition debris as fill material in a current  
8 or former quarry, mine, or other excavation without a permit  
9 granted by the Agency for the clean construction or demolition  
10 debris fill operation or in violation of any conditions imposed  
11 by such permit, including periodic reports and full access to  
12 adequate records and the inspection of facilities, as may be  
13 necessary to assure compliance with this Act and with Board  
14 regulations and standards adopted under this Act.

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

16 (A) the use of clean construction or demolition debris  
17 as fill material in a current or former quarry, mine, or  
18 other excavation located on the site where the clean  
19 construction or demolition debris was generated; or

20 (B) the use of clean construction or demolition debris  
21 as fill material in an excavation other than a current or  
22 former quarry or mine if this use complies with Illinois  
23 Department of Transportation specifications.

24 (c) In accordance with Title VII of this Act, the Board may  
25 adopt regulations to promote the purposes of this Section. The  
26 Agency shall consult with the mining and construction  
27 industries during the development of any regulations to promote  
28 the purposes of this Section.

29 (1) No later than December 15, 2005, the Agency shall  
30 propose to the Board, and no later than September 1, 2006,  
31 the Board shall adopt, regulations for the use of clean  
32 construction or demolition debris as fill material in  
33 current and former quarries, mines, and other excavations.  
34 Such regulations shall include, but shall not be limited  
35 to, standards for clean construction or demolition debris  
36 fill operations and the submission and review of permits

1 required under this Section.

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

6 (A) Assure that only clean construction or  
7 demolition debris is being used as fill material by  
8 screening each truckload of material received using a  
9 device approved by the Agency that detects volatile  
10 organic compounds. Such devices may include, but are  
11 not limited to, photo ionization detectors. All  
12 screening devices shall be operated and maintained in  
13 accordance with manufacturer's specifications.  
14 Unacceptable fill material shall be rejected from the  
15 site; and

16 (B) Retain for a minimum of 3 years the following  
17 information:

18 (i) The name of the hauler, the name of the  
19 generator, and place of origin of the debris or  
20 soil;

21 (ii) The approximate weight or volume of the  
22 debris or soil; and

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

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

27 (415 ILCS 5/22.52 new)

28 Sec. 22.52. Conflict of interest. Effective 30 days after  
29 the effective date of this amendatory Act of the 94th General  
30 Assembly, none of the following persons shall have a direct  
31 financial interest in or receive a personal financial benefit  
32 from any waste-disposal operation or any clean construction or  
33 demolition debris fill operation that requires a permit or  
34 interim authorization under this Act, or any corporate entity  
35 related to any such waste-disposal operation or clean

1 construction or demolition debris fill operation:

2 (i) the Governor of the State of Illinois;

3 (ii) the Attorney General of the State of Illinois;

4 (iii) the Director of the Illinois Environmental  
5 Protection Agency;

6 (iv) the Chairman of the Illinois Pollution Control  
7 Board;

8 (v) the members of the Illinois Pollution Control  
9 Board;

10 (vi) the staff of any person listed in items (i)  
11 through (v) of this Section who makes a regulatory or  
12 licensing decision that directly applies to any  
13 waste-disposal operation or any clean construction or  
14 demolition debris fill operation; and

15 (vii) a relative of any person listed in items (i)  
16 through (vi) of this Section.

17 The prohibitions of this Section shall apply during the  
18 person's term of State employment and shall continue for 5  
19 years after the person's termination of State employment. The  
20 prohibition of this Section shall not apply to any person whose  
21 State employment terminates prior to 30 days after the  
22 effective date of this amendatory Act of the 94th General  
23 Assembly.

24 For the purposes of this Section:

25 (a) The terms "direct financial interest" and  
26 "personal financial benefit" do not include the ownership  
27 of publicly traded stock.

28 (b) The term "relative" means father, mother, son,  
29 daughter, brother, sister, uncle, aunt, husband, wife,  
30 father-in-law, or mother-in-law.

31 (415 ILCS 5/34) (from Ch. 111 1/2, par. 1034)

32 Sec. 34. (a) Upon a finding that episode or emergency  
33 conditions specified in Board regulations exist, the Agency  
34 shall declare such alerts or emergencies as provided by those  
35 regulations. While such an alert or emergency is in effect, the

1 Agency may seal any equipment, vehicle, vessel, aircraft, or  
2 other facility operated in violation of such regulations.

3 (b) In ~~other~~ cases other than those identified in  
4 subsection (a) of this Section:

5 (1) At any pollution control facility where ~~in which~~  
6 the Agency finds that an emergency condition exists  
7 creating an immediate danger to public health or welfare or  
8 the environment, the Agency may seal any equipment,  
9 vehicle, vessel, aircraft, or other facility contributing  
10 to the emergency condition; and.

11 (2) At any other site or facility where the Agency  
12 finds that an imminent and substantial endangerment to the  
13 public health or welfare or the environment exists, the  
14 Agency may seal any equipment, vehicle, vessel, aircraft,  
15 or other facility contributing to the imminent and  
16 substantial endangerment.

17 (c) It shall be a Class A misdemeanor to break any seal  
18 affixed under this section, or to operate any sealed equipment,  
19 vehicle, vessel, aircraft, or other facility until the seal is  
20 removed according to law.

21 (d) The owner or operator of any equipment, vehicle,  
22 vessel, aircraft or other facility sealed pursuant to this  
23 section is entitled to a hearing in accord with Section 32 of  
24 this Act to determine whether the seal should be removed;  
25 except that in such hearing at least one Board member shall be  
26 present, and those Board members present may render a final  
27 decision without regard to the requirements of paragraph (a) of  
28 Section 5 of this Act. The petitioner may also seek immediate  
29 injunctive relief.

30 (Source: P.A. 77-2830.)

31 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

32 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

36 If there is no final action by the Agency within 90 days

1 after the filing of the application for permit, the applicant  
2 may deem the permit issued; except that this time period shall  
3 be extended to 180 days when (1) notice and opportunity for  
4 public hearing are required by State or federal law or  
5 regulation, (2) the application which was filed is for any  
6 permit to develop a landfill subject to issuance pursuant to  
7 this subsection, or (3) the application that was filed is for a  
8 MSWLF unit required to issue public notice under subsection (p)  
9 of Section 39. The 90-day and 180-day time periods for the  
10 Agency to take final action do not apply to NPDES permit  
11 applications under subsection (b) of this Section, to RCRA  
12 permit applications under subsection (d) of this Section, or to  
13 UIC permit applications under subsection (e) of this Section.

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

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

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

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

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

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

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

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

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

34 The Agency, subject to any conditions which may be  
35 prescribed by Board regulations, may issue NPDES permits to  
36 allow discharges beyond deadlines established by this Act or by

1 regulations of the Board without the requirement of a variance,  
2 subject to the Federal Water Pollution Control Act, as now or  
3 hereafter amended, and regulations pursuant thereto.

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

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

30 Beginning August 20, 1993, if the pollution control  
31 facility consists of a hazardous or solid waste disposal  
32 facility for which the proposed site is located in an  
33 unincorporated area of a county with a population of less than  
34 100,000 and includes all or a portion of a parcel of land that  
35 was, on April 1, 1993, adjacent to a municipality having a  
36 population of less than 5,000, then the local siting review

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

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

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

35 Except for those facilities owned or operated by sanitary  
36 districts organized under the Metropolitan Water Reclamation

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

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

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

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

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

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

36 (4) the site has local zoning approval.

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

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

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

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

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

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

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

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

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

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

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

1 Control Technology, consistent with the Board's  
2 regulations, if any.

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

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

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

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

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

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

26 (1) repeated violations of federal, State, or local  
27 laws, regulations, standards, or ordinances in the  
28 operation of waste management facilities or sites; or

29 (2) conviction in this or another State of any crime  
30 which is a felony under the laws of this State, or  
31 conviction of a felony in a federal court; or

32 (3) proof of gross carelessness or incompetence in  
33 handling, storing, processing, transporting or disposing  
34 of waste.

35 (i-5) Before issuing any permit or approving any interim  
36 authorization for a clean construction or demolition debris

1 fill operation in which any ownership interest is transferred  
2 between January 1, 2005, and the effective date of the  
3 prohibition set forth in Section 22.52 of this Act, the Agency  
4 shall conduct an evaluation of the operation if any previous  
5 activities at the site or facility may have caused or allowed  
6 contamination of the site. It shall be the responsibility of  
7 the owner or operator seeking the permit or interim  
8 authorization to provide to the Agency all of the information  
9 necessary for the Agency to conduct its evaluation. The Agency  
10 may deny a permit or interim authorization if previous  
11 activities at the site may have caused or allowed contamination  
12 at the site, unless such contamination is authorized under any  
13 permit issued by the Agency.

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

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

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

36 (m) The Agency may issue permits to persons owning or

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

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

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

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

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

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

27 The Agency shall issue permits for such facilities upon  
28 receipt of an application that includes a legal description of  
29 the site, a topographic map of the site drawn to the scale of  
30 200 feet to the inch or larger, a description of the operation,  
31 including the area served, an estimate of the volume of  
32 materials to be processed, and documentation that:

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

35 (2) the facility is located outside the boundary of the  
36 10-year floodplain or the site will be floodproofed;

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

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

14          (5) the operation of the facility will include  
15          appropriate dust and odor control measures, limitations on  
16          operating hours, appropriate noise control measures for  
17          shredding, chipping and similar equipment, management  
18          procedures for composting, containment and disposal of  
19          non-compostable wastes, procedures to be used for  
20          terminating operations at the site, and recordkeeping  
21          sufficient to document the amount of materials received,  
22          composted and otherwise disposed of; and

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

25          The Agency shall issue renewable permits of not longer than  
26          10 years in duration for the composting of landscape wastes, as  
27          defined in Section 3.155 of this Act, based on the above  
28          requirements.

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

34          (n) The Agency shall issue permits jointly with the  
35          Department of Transportation for the dredging or deposit of  
36          material in Lake Michigan in accordance with Section 18 of the

1 Rivers, Lakes, and Streams Act.

2 (o) (Blank.)

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

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

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

29 (3) Each applicant for a permit described in part (1) of  
30 this subsection shall file a copy of the permit application  
31 with the county board or governing body of the municipality in  
32 which the MSWLF unit is or is proposed to be located at the  
33 same time the application is submitted to the Agency. The  
34 permit application filed with the county board or governing  
35 body of the municipality shall include all documents submitted  
36 to or to be submitted to the Agency, except trade secrets as

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

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

9 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

10 Sec. 42. Civil penalties.

11 (a) Except as provided in this Section, any person that  
12 violates any provision of this Act or any regulation adopted by  
13 the Board, or any permit or term or condition thereof, or that  
14 violates any order of the Board pursuant to this Act, shall be  
15 liable for a civil penalty of not to exceed \$50,000 for the  
16 violation and an additional civil penalty of not to exceed  
17 \$10,000 for each day during which the violation continues; such  
18 penalties may, upon order of the Board or a court of competent  
19 jurisdiction, be made payable to the Environmental Protection  
20 Trust Fund, to be used in accordance with the provisions of the  
21 Environmental Protection Trust Fund Act.

22 (b) Notwithstanding the provisions of subsection (a) of  
23 this Section:

24 (1) Any person that violates Section 12(f) of this Act  
25 or any NPDES permit or term or condition thereof, or any  
26 filing requirement, regulation or order relating to the  
27 NPDES permit program, shall be liable to a civil penalty of  
28 not to exceed \$10,000 per day of violation.

29 (2) Any person that violates Section 12(g) of this Act  
30 or any UIC permit or term or condition thereof, or any  
31 filing requirement, regulation or order relating to the  
32 State UIC program for all wells, except Class II wells as  
33 defined by the Board under this Act, shall be liable to a  
34 civil penalty not to exceed \$2,500 per day of violation;  
35 provided, however, that any person who commits such

1 violations relating to the State UIC program for Class II  
2 wells, as defined by the Board under this Act, shall be  
3 liable to a civil penalty of not to exceed \$10,000 for the  
4 violation and an additional civil penalty of not to exceed  
5 \$1,000 for each day during which the violation continues.

6 (3) Any person that violates Sections 21(f), 21(g),  
7 21(h) or 21(i) of this Act, or any RCRA permit or term or  
8 condition thereof, or any filing requirement, regulation  
9 or order relating to the State RCRA program, shall be  
10 liable to a civil penalty of not to exceed \$25,000 per day  
11 of violation.

12 (4) In an administrative citation action under Section  
13 31.1 of this Act, any person found to have violated any  
14 provision of subsection (o) of Section 21 of this Act shall  
15 pay a civil penalty of \$500 for each violation of each such  
16 provision, plus any hearing costs incurred by the Board and  
17 the Agency. Such penalties shall be made payable to the  
18 Environmental Protection Trust Fund, to be used in  
19 accordance with the provisions of the Environmental  
20 Protection Trust Fund Act; except that if a unit of local  
21 government issued the administrative citation, 50% of the  
22 civil penalty shall be payable to the unit of local  
23 government.

24 (4-5) In an administrative citation action under  
25 Section 31.1 of this Act, any person found to have violated  
26 any provision of subsection (p) of Section 21 of this Act  
27 shall pay a civil penalty of \$1,500 for each violation of  
28 each such provision, plus any hearing costs incurred by the  
29 Board and the Agency, except that the civil penalty amount  
30 shall be \$3,000 for each violation of any provision of  
31 subsection (p) of Section 21 that is the person's second or  
32 subsequent adjudication violation of that provision. The  
33 penalties shall be deposited into the Environmental  
34 Protection Trust Fund, to be used in accordance with the  
35 provisions of the Environmental Protection Trust Fund Act;  
36 except that if a unit of local government issued the

1 administrative citation, 50% of the civil penalty shall be  
2 payable to the unit of local government.

3 (5) Any person who violates subsection 6 of Section  
4 39.5 of this Act or any CAAPP permit, or term or condition  
5 thereof, or any fee or filing requirement, or any duty to  
6 allow or carry out inspection, entry or monitoring  
7 activities, or any regulation or order relating to the  
8 CAAPP shall be liable for a civil penalty not to exceed  
9 \$10,000 per day of violation.

10 (b.5) In lieu of the penalties set forth in subsections (a)  
11 and (b) of this Section, any person who fails to file, in a  
12 timely manner, toxic chemical release forms with the Agency  
13 pursuant to Section 25b-2 of this Act shall be liable for a  
14 civil penalty of \$100 per day for each day the forms are late,  
15 not to exceed a maximum total penalty of \$6,000. This daily  
16 penalty shall begin accruing on the thirty-first day after the  
17 date that the person receives the warning notice issued by the  
18 Agency pursuant to Section 25b-6 of this Act; and the penalty  
19 shall be paid to the Agency. The daily accrual of penalties  
20 shall cease as of January 1 of the following year. All  
21 penalties collected by the Agency pursuant to this subsection  
22 shall be deposited into the Environmental Protection Permit and  
23 Inspection Fund.

24 (c) Any person that violates this Act, any rule or  
25 regulation adopted under this Act, any permit or term or  
26 condition of a permit, or any Board order and causes the death  
27 of fish or aquatic life shall, in addition to the other  
28 penalties provided by this Act, be liable to pay to the State  
29 an additional sum for the reasonable value of the fish or  
30 aquatic life destroyed. Any money so recovered shall be placed  
31 in the Wildlife and Fish Fund in the State Treasury.

32 (d) The penalties provided for in this Section may be  
33 recovered in a civil action.

34 (e) The State's Attorney of the county in which the  
35 violation occurred, or the Attorney General, may, at the  
36 request of the Agency or on his own motion, institute a civil

1 action for an injunction, prohibitory or mandatory, to restrain  
2 violations of this Act, any rule or regulation adopted under  
3 this Act, any permit or term or condition of a permit, or any  
4 Board order, or to require such other actions as may be  
5 necessary to address violations of this Act, any rule or  
6 regulation adopted under this Act, any permit or term or  
7 condition of a permit, or any Board order.

8 (f) The State's Attorney of the county in which the  
9 violation occurred, or the Attorney General, shall bring such  
10 actions in the name of the people of the State of Illinois.  
11 Without limiting any other authority which may exist for the  
12 awarding of attorney's fees and costs, the Board or a court of  
13 competent jurisdiction may award costs and reasonable  
14 attorney's fees, including the reasonable costs of expert  
15 witnesses and consultants, to the State's Attorney or the  
16 Attorney General in a case where he has prevailed against a  
17 person who has committed a wilful, knowing or repeated  
18 violation of this Act, any rule or regulation adopted under  
19 this Act, any permit or term or condition of a permit, or any  
20 Board order.

21 Any funds collected under this subsection (f) in which the  
22 Attorney General has prevailed shall be deposited in the  
23 Hazardous Waste Fund created in Section 22.2 of this Act. Any  
24 funds collected under this subsection (f) in which a State's  
25 Attorney has prevailed shall be retained by the county in which  
26 he serves.

27 (g) All final orders imposing civil penalties pursuant to  
28 this Section shall prescribe the time for payment of such  
29 penalties. If any such penalty is not paid within the time  
30 prescribed, interest on such penalty at the rate set forth in  
31 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
32 shall be paid for the period from the date payment is due until  
33 the date payment is received. However, if the time for payment  
34 is stayed during the pendency of an appeal, interest shall not  
35 accrue during such stay.

36 (h) In determining the appropriate civil penalty to be

1 imposed under subdivisions (a), (b) (1), (b) (2), (b) (3), or  
2 (b) (5) of this Section, the Board is authorized to consider any  
3 matters of record in mitigation or aggravation of penalty,  
4 including but not limited to the following factors:

5 (1) the duration and gravity of the violation;

6 (2) the presence or absence of due diligence on the  
7 part of the respondent in attempting to comply with  
8 requirements of this Act and regulations thereunder or to  
9 secure relief therefrom as provided by this Act;

10 (3) any economic benefits accrued by the respondent  
11 because of delay in compliance with requirements, in which  
12 case the economic benefits shall be determined by the  
13 lowest cost alternative for achieving compliance;

14 (4) the amount of monetary penalty which will serve to  
15 deter further violations by the respondent and to otherwise  
16 aid in enhancing voluntary compliance with this Act by the  
17 respondent and other persons similarly subject to the Act;

18 (5) the number, proximity in time, and gravity of  
19 previously adjudicated violations of this Act by the  
20 respondent;

21 (6) whether the respondent voluntarily self-disclosed,  
22 in accordance with subsection (i) of this Section, the  
23 non-compliance to the Agency; and

24 (7) whether the respondent has agreed to undertake a  
25 "supplemental environmental project," which means an  
26 environmentally beneficial project that a respondent  
27 agrees to undertake in settlement of an enforcement action  
28 brought under this Act, but which the respondent is not  
29 otherwise legally required to perform.

30 In determining the appropriate civil penalty to be imposed  
31 under subsection (a) or paragraph (1), (2), (3), or (5) of  
32 subsection (b) of this Section, the Board shall ensure, in all  
33 cases, that the penalty is at least as great as the economic  
34 benefits, if any, accrued by the respondent as a result of the  
35 violation, unless the Board finds that imposition of such  
36 penalty would result in an arbitrary or unreasonable financial

1 hardship. However, such civil penalty may be off-set in whole  
2 or in part pursuant to a supplemental environmental project  
3 agreed to by the complainant and the respondent.

4 (i) A person who voluntarily self-discloses non-compliance  
5 to the Agency, of which the Agency had been unaware, is  
6 entitled to a 100% reduction in the portion of the penalty that  
7 is not based on the economic benefit of non-compliance if the  
8 person can establish the following:

9 (1) that the non-compliance was discovered through an  
10 environmental audit, as defined in Section 52.2 of this  
11 Act, and the person waives the environmental audit  
12 privileges as provided in that Section with respect to that  
13 non-compliance;

14 (2) that the non-compliance was disclosed in writing  
15 within 30 days of the date on which the person discovered  
16 it;

17 (3) that the non-compliance was discovered and  
18 disclosed prior to:

19 (i) the commencement of an Agency inspection,  
20 investigation, or request for information;

21 (ii) notice of a citizen suit;

22 (iii) the filing of a complaint by a citizen, the  
23 Illinois Attorney General, or the State's Attorney of  
24 the county in which the violation occurred;

25 (iv) the reporting of the non-compliance by an  
26 employee of the person without that person's  
27 knowledge; or

28 (v) imminent discovery of the non-compliance by  
29 the Agency;

30 (4) that the non-compliance is being corrected and any  
31 environmental harm is being remediated in a timely fashion;

32 (5) that the person agrees to prevent a recurrence of  
33 the non-compliance;

34 (6) that no related non-compliance events have  
35 occurred in the past 3 years at the same facility or in the  
36 past 5 years as part of a pattern at multiple facilities

1 owned or operated by the person;

2 (7) that the non-compliance did not result in serious  
3 actual harm or present an imminent and substantial  
4 endangerment to human health or the environment or violate  
5 the specific terms of any judicial or administrative order  
6 or consent agreement;

7 (8) that the person cooperates as reasonably requested  
8 by the Agency after the disclosure; and

9 (9) that the non-compliance was identified voluntarily  
10 and not through a monitoring, sampling, or auditing  
11 procedure that is required by statute, rule, permit,  
12 judicial or administrative order, or consent agreement.

13 If a person can establish all of the elements under this  
14 subsection except the element set forth in paragraph (1) of  
15 this subsection, the person is entitled to a 75% reduction in  
16 the portion of the penalty that is not based upon the economic  
17 benefit of non-compliance.

18 (j) In addition to an other remedy or penalty that may  
19 apply, whether civil or criminal, any person who violates  
20 Section 22.52 of this Act shall be liable for an additional  
21 civil penalty of up to 3 times the gross amount of any  
22 pecuniary gain resulting from the violation.

23 (Source: P.A. 93-152, eff. 7-10-03; 93-575, eff. 1-1-04;  
24 93-831, eff. 7-28-04.)

25 (415 ILCS 5/58.8)

26 Sec. 58.8. Duty to record; compliance.

27 (a) The RA receiving a No Further Remediation Letter from  
28 the Agency pursuant to Section 58.10, shall submit the letter  
29 to the Office of the Recorder or the Registrar of Titles of the  
30 county in which the site is located within 45 days of receipt  
31 of the letter. The Office of the Recorder or the Registrar of  
32 Titles shall accept and record that letter in accordance with  
33 Illinois law so that it forms a permanent part of the chain of  
34 title for the site.

35 (b) A No Further Remediation Letter shall not become

1 effective until officially recorded in accordance with  
2 subsection (a) of this Section. The RA shall obtain and submit  
3 to the Agency a certified copy of the No Further Remediation  
4 Letter as recorded.

5 (c) (Blank). ~~At no time shall any site for which a land use~~  
6 ~~limitation has been imposed as a result of remediation~~  
7 ~~activities under this Title be used in a manner inconsistent~~  
8 ~~with the land use limitation unless further investigation or~~  
9 ~~remedial action has been conducted that documents the~~  
10 ~~attainment of objectives appropriate for the new land use and a~~  
11 ~~new No Further Remediation Letter obtained and recorded in~~  
12 ~~accordance with this Title.~~

13 (d) In the event that a No Further Remediation Letter  
14 issues by operation of law pursuant to Section 58.10, the RA  
15 may, for purposes of this Section, file an affidavit stating  
16 that the letter issued by operation of law. Upon receipt of the  
17 No Further Remediation Letter from the Agency, the RA shall  
18 comply with the requirements of subsections (a) and (b) of this  
19 Section.

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.