

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 39 and 39.2 as follows:

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

7 (Text of Section before amendment by P.A. 94-725)

8 Sec. 39. Issuance of permits; procedures.

9 (a) When the Board has by regulation required a permit for  
10 the construction, installation, or operation of any type of  
11 facility, equipment, vehicle, vessel, or aircraft, the  
12 applicant shall apply to the Agency for such permit and it  
13 shall be the duty of the Agency to issue such a permit upon  
14 proof by the applicant that the facility, equipment, vehicle,  
15 vessel, or aircraft will not cause a violation of this Act or  
16 of regulations hereunder. The Agency shall adopt such  
17 procedures as are necessary to carry out its duties under this  
18 Section. In making its determinations on permit applications  
19 under this Section the Agency may consider prior adjudications  
20 of noncompliance with this Act by the applicant that involved a  
21 release of a contaminant into the environment. In granting  
22 permits, the Agency may impose reasonable conditions  
23 specifically related to the applicant's past compliance  
24 history with this Act as necessary to correct, detect, or  
25 prevent noncompliance. The Agency may impose such other  
26 conditions as may be necessary to accomplish the purposes of  
27 this Act, and as are not inconsistent with the regulations  
28 promulgated by the Board hereunder. Except as otherwise  
29 provided in this Act, a bond or other security shall not be  
30 required as a condition for the issuance of a permit. If the  
31 Agency denies any permit under this Section, the Agency shall  
32 transmit to the applicant within the time limitations of this

1 Section specific, detailed statements as to the reasons the  
2 permit application was denied. Such statements shall include,  
3 but not be limited to the following:

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

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

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

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

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

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

35 After January 1, 1994 and until July 1, 1998, operating  
36 permits issued under this Section by the Agency for sources of

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

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

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

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

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

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

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

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

19           (c) Except for those facilities owned or operated by  
20 sanitary districts organized under the Metropolitan Water  
21 Reclamation District Act, no permit for the development or  
22 construction of a new pollution control facility may be granted  
23 by the Agency unless the applicant submits proof to the Agency  
24 that the location of the facility has been approved by the  
25 County Board of the county if in an unincorporated area, or the  
26 governing body of the municipality when in an incorporated  
27 area, in which the facility is to be located in accordance with  
28 Section 39.2 of this Act. For purposes of this subsection (c),  
29 and for purposes of Section 39.2 of this Act, the appropriate  
30 county board or governing body of the municipality shall be the  
31 county board of the county or the governing body of the  
32 municipality in which the facility is to be located as of the  
33 date when the application for siting approval is filed.

34           In the event that siting approval granted pursuant to  
35 Section 39.2 has been transferred to a subsequent owner or  
36 operator, that subsequent owner or operator may apply to the

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

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

31 In the case of a pollution control facility for which a  
32 development permit was issued before November 12, 1981, if an  
33 operating permit has not been issued by the Agency prior to  
34 August 31, 1989 for any portion of the facility, then the  
35 Agency may not issue or renew any development permit nor issue  
36 an original operating permit for any portion of such facility

1 unless the applicant has submitted proof to the Agency that the  
2 location of the facility has been approved by the appropriate  
3 county board or municipal governing body pursuant to Section  
4 39.2 of this Act.

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

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

27 Before beginning construction on any new sewage treatment  
28 plant or sludge drying site to be owned or operated by a  
29 sanitary district organized under the Metropolitan Water  
30 Reclamation District Act for which a new permit (rather than  
31 the renewal or amendment of an existing permit) is required,  
32 such sanitary district shall hold a public hearing within the  
33 municipality within which the proposed facility is to be  
34 located, or within the nearest community if the proposed  
35 facility is to be located within an unincorporated area, at  
36 which information concerning the proposed facility shall be

1 made available to the public, and members of the public shall  
2 be given the opportunity to express their views concerning the  
3 proposed facility.

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

7 (1) the municipal waste transfer station was in  
8 existence on or before January 1, 1979 and was in  
9 continuous operation from January 1, 1979 to January 1,  
10 1993;

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

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

20 (4) the site has local zoning approval.

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

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

36 In the case of a permit to operate a hazardous waste or PCB

1 incinerator as defined in subsection (k) of Section 44, the  
2 Agency shall require, as a condition of the permit, that the  
3 operator of the facility perform such analyses of the waste to  
4 be incinerated as may be necessary and appropriate to ensure  
5 the safe operation of the incinerator.

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

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

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

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

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



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

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

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

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

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

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

33 (g) The Agency shall include as conditions upon all permits  
34 issued for hazardous waste disposal sites such restrictions  
35 upon the future use of such sites as are reasonably necessary  
36 to protect public health and the environment, including

1 permanent prohibition of the use of such sites for purposes  
2 which may create an unreasonable risk of injury to human health  
3 or to the environment. After administrative and judicial  
4 challenges to such restrictions have been exhausted, the Agency  
5 shall file such restrictions of record in the Office of the  
6 Recorder of the county in which the hazardous waste disposal  
7 site is located.

8 (h) A hazardous waste stream may not be deposited in a  
9 permitted hazardous waste site unless specific authorization  
10 is obtained from the Agency by the generator and disposal site  
11 owner and operator for the deposit of that specific hazardous  
12 waste stream. The Agency may grant specific authorization for  
13 disposal of hazardous waste streams only after the generator  
14 has reasonably demonstrated that, considering technological  
15 feasibility and economic reasonableness, the hazardous waste  
16 cannot be reasonably recycled for reuse, nor incinerated or  
17 chemically, physically or biologically treated so as to  
18 neutralize the hazardous waste and render it nonhazardous. In  
19 granting authorization under this Section, the Agency may  
20 impose such conditions as may be necessary to accomplish the  
21 purposes of the Act and are consistent with this Act and  
22 regulations promulgated by the Board hereunder. If the Agency  
23 refuses to grant authorization under this Section, the  
24 applicant may appeal as if the Agency refused to grant a  
25 permit, pursuant to the provisions of subsection (a) of Section  
26 40 of this Act. For purposes of this subsection (h), the term  
27 "generator" has the meaning given in Section 3.205 of this Act,  
28 unless: (1) the hazardous waste is treated, incinerated, or  
29 partially recycled for reuse prior to disposal, in which case  
30 the last person who treats, incinerates, or partially recycles  
31 the hazardous waste prior to disposal is the generator; or (2)  
32 the hazardous waste is from a response action, in which case  
33 the person performing the response action is the generator.  
34 This subsection (h) does not apply to any hazardous waste that  
35 is restricted from land disposal under 35 Ill. Adm. Code 728.

36 (i) Before issuing any RCRA permit, any permit for a waste

1 storage site, sanitary landfill, waste disposal site, waste  
2 transfer station, waste treatment facility, waste incinerator,  
3 or any waste-transportation operation, or any permit for a  
4 clean construction or demolition debris fill operation, the  
5 Agency shall conduct an evaluation of the prospective owner's  
6 or operator's prior experience in waste management operations.  
7 The Agency may deny such a permit if the prospective owner or  
8 operator or any employee or officer of the prospective owner or  
9 operator has a history of:

10 (1) repeated violations of federal, State, or local  
11 laws, regulations, standards, or ordinances in the  
12 operation of waste management facilities or sites; or

13 (2) conviction in this or another State of any crime  
14 which is a felony under the laws of this State, or  
15 conviction of a felony in a federal court; or

16 (3) proof of gross carelessness or incompetence in  
17 handling, storing, processing, transporting or disposing  
18 of waste.

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

34 (j) The issuance under this Act of a permit to engage in  
35 the surface mining of any resources other than fossil fuels  
36 shall not relieve the permittee from its duty to comply with

1 any applicable local law regulating the commencement, location  
2 or operation of surface mining facilities.

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

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

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

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

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

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

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

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

11          The Agency shall issue permits for such facilities upon  
12          receipt of an application that includes a legal description of  
13          the site, a topographic map of the site drawn to the scale of  
14          200 feet to the inch or larger, a description of the operation,  
15          including the area served, an estimate of the volume of  
16          materials to be processed, and documentation that:

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

19                 (2) the facility is located outside the boundary of the  
20                 10-year floodplain or the site will be floodproofed;

21                 (3) the facility is located so as to minimize  
22                 incompatibility with the character of the surrounding  
23                 area, including at least a 200 foot setback from any  
24                 residence, and in the case of a facility that is developed  
25                 or the permitted composting area of which is expanded after  
26                 November 17, 1991, the composting area is located at least  
27                 1/8 mile from the nearest residence (other than a residence  
28                 located on the same property as the facility);

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

34                 (5) the operation of the facility will include  
35                 appropriate dust and odor control measures, limitations on  
36                 operating hours, appropriate noise control measures for

1 shredding, chipping and similar equipment, management  
2 procedures for composting, containment and disposal of  
3 non-compostable wastes, procedures to be used for  
4 terminating operations at the site, and recordkeeping  
5 sufficient to document the amount of materials received,  
6 composted and otherwise disposed of; and

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

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

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

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

22 (o) (Blank.)

23 (p) (1) Any person submitting an application for a permit  
24 for a new MSWLF unit or for a lateral expansion under  
25 subsection (t) of Section 21 of this Act for an existing MSWLF  
26 unit that has not received and is not subject to local siting  
27 approval under Section 39.2 of this Act shall publish notice of  
28 the application in a newspaper of general circulation in the  
29 county in which the MSWLF unit is or is proposed to be located.  
30 The notice must be published at least 15 days before submission  
31 of the permit application to the Agency. The notice shall state  
32 the name and address of the applicant, the location of the  
33 MSWLF unit or proposed MSWLF unit, the nature and size of the  
34 MSWLF unit or proposed MSWLF unit, the nature of the activity  
35 proposed, the probable life of the proposed activity, the date  
36 the permit application will be submitted, and a statement that

1 persons may file written comments with the Agency concerning  
2 the permit application within 30 days after the filing of the  
3 permit application unless the time period to submit comments is  
4 extended by the Agency.

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

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

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

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

29 (Text of Section after amendment by P.A. 94-725)

30 Sec. 39. Issuance of permits; procedures.

31 (a) When the Board has by regulation required a permit for  
32 the construction, installation, or operation of any type of  
33 facility, equipment, vehicle, vessel, or aircraft, the  
34 applicant shall apply to the Agency for such permit and it  
35 shall be the duty of the Agency to issue such a permit upon

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

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

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

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

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

34 If there is no final action by the Agency within 90 days  
35 after the filing of the application for permit, the applicant  
36 may deem the permit issued; except that this time period shall



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

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

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

29 After June 30, 1998, operating permits issued under this  
30 Section by the Agency for sources of air pollution that are not  
31 subject to Section 39.5 of this Act and are not required to  
32 have a federally enforceable State operating permit shall be  
33 required to be renewed only upon written request by the Agency  
34 consistent with applicable provisions of this Act and its  
35 rules. Such operating permits shall expire 180 days after the  
36 date of such a request. Before July 1, 1998, the Board shall

1 revise its rules for the existing State air pollution operating  
2 permit program consistent with this paragraph and shall adopt  
3 rules that require a source to demonstrate that it qualifies  
4 for a permit under this paragraph.

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

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

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

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

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

32 The Agency, subject to any conditions which may be  
33 prescribed by Board regulations, may issue NPDES permits to  
34 allow discharges beyond deadlines established by this Act or by  
35 regulations of the Board without the requirement of a variance,  
36 subject to the Federal Water Pollution Control Act, as now or

1 hereafter amended, and regulations pursuant thereto.

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

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

33 Beginning August 20, 1993, if the pollution control  
34 facility consists of a hazardous or solid waste disposal  
35 facility for which the proposed site is located in an  
36 unincorporated area of a county with a population of less than

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

14 In the case of a pollution control facility for which a  
15 development permit was issued before November 12, 1981, if an  
16 operating permit has not been issued by the Agency prior to  
17 August 31, 1989 for any portion of the facility, then the  
18 Agency may not issue or renew any development permit nor issue  
19 an original operating permit for any portion of such facility  
20 unless the applicant has submitted proof to the Agency that the  
21 location of the facility has been approved by the appropriate  
22 county board or municipal governing body pursuant to Section  
23 39.2 of this Act.

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

1 Act after the facility ceased accepting waste.

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

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

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

26 (1) the municipal waste transfer station was in  
27 existence on or before January 1, 1979 and was in  
28 continuous operation from January 1, 1979 to January 1,  
29 1993;

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

33 (3) the operator can demonstrate that the county board  
34 of the county, if the municipal waste transfer station is  
35 in an unincorporated area, or the governing body of the  
36 municipality, if the station is in an incorporated area,

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

3 (4) the site has local zoning approval.

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

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

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

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

31 The applicant shall make available to the public for  
32 inspection all documents submitted by the applicant to the  
33 Agency in furtherance of an application, with the exception of  
34 trade secrets, at the office of the county board or governing  
35 body of the municipality. Such documents may be copied upon  
36 payment of the actual cost of reproduction during regular

1 business hours of the local office. The Agency shall issue a  
2 written statement concurrent with its grant or denial of the  
3 permit explaining the basis for its decision.

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

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

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

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

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

34 (1) The Agency shall have authority to make the  
35 determination of any question required to be determined by  
36 the Clean Air Act, as now or hereafter amended, this Act,

1 or the regulations of the Board, including the  
2 determination of the Lowest Achievable Emission Rate,  
3 Maximum Achievable Control Technology, or Best Available  
4 Control Technology, consistent with the Board's  
5 regulations, if any.

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

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

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

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



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

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

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

36 (2) conviction in this or another State of any crime

1 which is a felony under the laws of this State, or  
2 conviction of a felony in a federal court; or conviction in  
3 this or another state or federal court of any of the  
4 following crimes: forgery, official misconduct, bribery,  
5 perjury, or knowingly submitting false information under  
6 any environmental law, regulation, or permit term or  
7 condition; or

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

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

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

33 (k) A development permit issued under subsection (a) of  
34 Section 39 for any facility or site which is required to have a  
35 permit under subsection (d) of Section 21 shall expire at the  
36 end of 2 calendar years from the date upon which it was issued,

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

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

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

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

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

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

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

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

1 after the filing of the application for permit, the applicant  
2 may deem the permit issued. Any applicant for a permit may  
3 waive the 90 day limitation by filing a written statement with  
4 the Agency.

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

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

13 (2) the facility is located outside the boundary of the  
14 10-year floodplain or the site will be floodproofed;

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

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

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

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

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

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

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

16          (o) (Blank.)

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

35          When a permit applicant submits information to the Agency  
36          to supplement a permit application being reviewed by the

1 Agency, the applicant shall not be required to reissue the  
2 notice under this subsection.

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

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

22 (Source: P.A. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05;  
23 94-725, eff. 6-1-06.)

24 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)  
25 Sec. 39.2. Local siting review.

26 (a) The county board of the county or the governing body of  
27 the municipality, as determined by paragraph (c) of Section 39  
28 of this Act, shall approve or disapprove the request for local  
29 siting approval for each pollution control facility which is  
30 subject to such review. An applicant for local siting approval  
31 shall submit sufficient details describing the proposed  
32 facility to demonstrate compliance, and local siting approval  
33 shall be granted only if the proposed facility meets the  
34 following criteria:

35 (i) the facility is necessary to accommodate the waste

1 needs of the area it is intended to serve;

2 (ii) the facility is so designed, located and proposed  
3 to be operated that the public health, safety and welfare  
4 will be protected;

5 (iii) the facility is located so as to minimize  
6 incompatibility with the character of the surrounding area  
7 and to minimize the effect on the value of the surrounding  
8 property;

9 (iv) (A) for a facility other than a sanitary landfill  
10 or waste disposal site, the facility is located outside the  
11 boundary of the 100 year flood plain or the site is  
12 flood-proofed; (B) for a facility that is a sanitary  
13 landfill or waste disposal site, the facility is located  
14 outside the boundary of the 100-year floodplain, or if the  
15 facility is a facility described in subsection (b)(3) of  
16 Section 22.19a, the site is flood-proofed;

17 (v) the plan of operations for the facility is designed  
18 to minimize the danger to the surrounding area from fire,  
19 spills, or other operational accidents;

20 (vi) the traffic patterns to or from the facility are  
21 so designed as to minimize the impact on existing traffic  
22 flows;

23 (vii) if the facility will be treating, storing or  
24 disposing of hazardous waste, an emergency response plan  
25 exists for the facility which includes notification,  
26 containment and evacuation procedures to be used in case of  
27 an accidental release;

28 (viii) if the facility is to be located in a county  
29 where the county board has adopted a solid waste management  
30 plan consistent with the planning requirements of the Local  
31 Solid Waste Disposal Act or the Solid Waste Planning and  
32 Recycling Act, the facility is consistent with that plan;  
33 for purposes of this criterion (viii), the "solid waste  
34 management plan" means the plan that is in effect as of the  
35 date the application for siting approval is filed; and

36 (ix) if the facility will be located within a regulated

1 recharge area, any applicable requirements specified by  
2 the Board for such areas have been met.

3 The county board or the governing body of the municipality  
4 may also consider as evidence the previous operating experience  
5 and past record of convictions or admissions of violations of  
6 the applicant (and any subsidiary or parent corporation) in the  
7 field of solid waste management when considering criteria (ii)  
8 and (v) under this Section.

9 If the facility is subject to the location restrictions in  
10 Section 22.14 of this Act, compliance with that Section shall  
11 be determined as of the date the application for siting  
12 approval is filed.

13 (b) No later than 14 days before the date on which the  
14 county board or governing body of the municipality receives a  
15 request for site approval, the applicant shall cause written  
16 notice of such request to be served either in person or by  
17 registered mail, return receipt requested, on the owners of all  
18 property within the subject area not solely owned by the  
19 applicant, and on the owners of all property within 250 feet in  
20 each direction of the lot line of the subject property, said  
21 owners being such persons or entities which appear from the  
22 authentic tax records of the County in which such facility is  
23 to be located; provided, that the number of all feet occupied  
24 by all public roads, streets, alleys and other public ways  
25 shall be excluded in computing the 250 feet requirement;  
26 provided further, that in no event shall this requirement  
27 exceed 400 feet, including public streets, alleys and other  
28 public ways.

29 Such written notice shall also be served upon members of  
30 the General Assembly from the legislative district in which the  
31 proposed facility is located and shall be published in a  
32 newspaper of general circulation published in the county in  
33 which the site is located.

34 Such notice shall state the name and address of the  
35 applicant, the location of the proposed site, the nature and  
36 size of the development, the nature of the activity proposed,



1 the probable life of the proposed activity, the date when the  
2 request for site approval will be submitted, and a description  
3 of the right of persons to comment on such request as hereafter  
4 provided.

5 (c) An applicant shall file a copy of its request with the  
6 county board of the county or the governing body of the  
7 municipality in which the proposed site is located. The request  
8 shall include (i) the substance of the applicant's proposal and  
9 (ii) all documents, if any, submitted as of that date to the  
10 Agency pertaining to the proposed facility, except trade  
11 secrets as determined under Section 7.1 of this Act. All such  
12 documents or other materials on file with the county board or  
13 governing body of the municipality shall be made available for  
14 public inspection at the office of the county board or the  
15 governing body of the municipality and may be copied upon  
16 payment of the actual cost of reproduction.

17 Any person may file written comment with the county board  
18 or governing body of the municipality concerning the  
19 appropriateness of the proposed site for its intended purpose.  
20 The county board or governing body of the municipality shall  
21 consider any comment received or postmarked not later than 30  
22 days after the date of the last public hearing.

23 (d) At least one public hearing is to be held by the county  
24 board or governing body of the municipality no sooner than 90  
25 days but no later than 120 days after the date on which it  
26 received the request for site approval. No later than 14 days  
27 prior to such hearing, notice shall be published in a newspaper  
28 of general circulation published in the county of the proposed  
29 site, and delivered by certified mail to all members of the  
30 General Assembly from the district in which the proposed site  
31 is located, to the governing authority of every municipality  
32 contiguous to the proposed site or contiguous to the  
33 municipality in which the proposed site is to be located, to  
34 the county board of the county where the proposed site is to be  
35 located, if the proposed site is located within the boundaries  
36 of a municipality, and to the Agency. Members or

1 representatives of the governing authority of a municipality  
2 contiguous to the proposed site or contiguous to the  
3 municipality in which the proposed site is to be located and,  
4 if the proposed site is located in a municipality, members or  
5 representatives of the county board of a county in which the  
6 proposed site is to be located may appear at and participate in  
7 public hearings held pursuant to this Section. The public  
8 hearing shall develop a record sufficient to form the basis of  
9 appeal of the decision in accordance with Section 40.1 of this  
10 Act. The fact that a member of the county board or governing  
11 body of the municipality has publicly expressed an opinion on  
12 an issue related to a site review proceeding shall not preclude  
13 the member from taking part in the proceeding and voting on the  
14 issue.

15 (e) Decisions of the county board or governing body of the  
16 municipality are to be in writing, specifying the reasons for  
17 the decision, such reasons to be in conformance with subsection  
18 (a) of this Section. In granting approval for a site the county  
19 board or governing body of the municipality may impose such  
20 conditions as may be reasonable and necessary to accomplish the  
21 purposes of this Section and as are not inconsistent with  
22 regulations promulgated by the Board. Such decision shall be  
23 available for public inspection at the office of the county  
24 board or governing body of the municipality and may be copied  
25 upon payment of the actual cost of reproduction. If there is no  
26 final action by the county board or governing body of the  
27 municipality within 180 days after the date on which it  
28 received the request for site approval, the applicant may deem  
29 the request approved.

30 At any time prior to completion by the applicant of the  
31 presentation of the applicant's factual evidence and an  
32 opportunity for cross-questioning by the county board or  
33 governing body of the municipality and any participants, the  
34 applicant may file not more than one amended application upon  
35 payment of additional fees pursuant to subsection (k); in which  
36 case the time limitation for final action set forth in this

1 subsection (e) shall be extended for an additional period of 90  
2 days.

3 If, prior to making a final local siting decision, a county  
4 board or governing body of a municipality has negotiated and  
5 entered into a host agreement with the local siting applicant,  
6 the terms and conditions of the host agreement, whether written  
7 or oral, shall be disclosed and made a part of the hearing  
8 record for that local siting proceeding. In the case of an oral  
9 agreement, the disclosure shall be made in the form of a  
10 written summary jointly prepared and submitted by the county  
11 board or governing body of the municipality and the siting  
12 applicant and shall describe the terms and conditions of the  
13 oral agreement.

14 (e-5) Siting approval obtained pursuant to this Section is  
15 transferable and may be transferred to a subsequent owner or  
16 operator. In the event that siting approval has been  
17 transferred to a subsequent owner or operator, that subsequent  
18 owner or operator assumes and takes subject to any and all  
19 conditions imposed upon the prior owner or operator by the  
20 county board of the county or governing body of the  
21 municipality pursuant to subsection (e). However, any such  
22 conditions imposed pursuant to this Section may be modified by  
23 agreement between the subsequent owner or operator and the  
24 appropriate county board or governing body. Further, in the  
25 event that siting approval obtained pursuant to this Section  
26 has been transferred to a subsequent owner or operator, that  
27 subsequent owner or operator assumes all rights and obligations  
28 and takes the facility subject to any and all terms and  
29 conditions of any existing host agreement between the prior  
30 owner or operator and the appropriate county board or governing  
31 body.

32 (f) A local siting approval granted under this Section  
33 shall expire at the end of 2 calendar years from the date upon  
34 which it was granted, unless the local siting approval granted  
35 under this Section is for a sanitary landfill operation, in  
36 which case the approval shall expire at the end of 3 calendar

1 years from the date upon which it was granted, and unless  
2 within that period the applicant has made application to the  
3 Agency for a permit to develop the site. In the event that the  
4 local siting decision has been appealed, such expiration period  
5 shall be deemed to begin on the date upon which the appeal  
6 process is concluded.

7 Except as otherwise provided in this subsection, upon the  
8 expiration of a development permit under subsection (k) of  
9 Section 39, any associated local siting approval granted for  
10 the facility under this Section shall also expire.

11 If a first development permit for a municipal waste  
12 incineration facility expires under subsection (k) of Section  
13 39 after September 30, 1989 due to circumstances beyond the  
14 control of the applicant, any associated local siting approval  
15 granted for the facility under this Section may be used to  
16 fulfill the local siting approval requirement upon application  
17 for a second development permit for the same site, provided  
18 that the proposal in the new application is materially the  
19 same, with respect to the criteria in subsection (a) of this  
20 Section, as the proposal that received the original siting  
21 approval, and application for the second development permit is  
22 made before January 1, 1990.

23 (g) The siting approval procedures, criteria and appeal  
24 procedures provided for in this Act for new pollution control  
25 facilities shall be the exclusive siting procedures and rules  
26 and appeal procedures for facilities subject to such  
27 procedures. Local zoning or other local land use requirements  
28 shall not be applicable to such siting decisions.

29 (h) Nothing in this Section shall apply to any existing or  
30 new pollution control facility located within the corporate  
31 limits of a municipality with a population of over 1,000,000.

32 (i) (Blank.)

33 The Board shall adopt regulations establishing the  
34 geologic and hydrologic siting criteria necessary to protect  
35 usable groundwater resources which are to be followed by the  
36 Agency in its review of permit applications for new pollution

1 control facilities. Such regulations, insofar as they apply to  
2 new pollution control facilities authorized to store, treat or  
3 dispose of any hazardous waste, shall be at least as stringent  
4 as the requirements of the Resource Conservation and Recovery  
5 Act and any State or federal regulations adopted pursuant  
6 thereto.

7 (j) Any new pollution control facility which has never  
8 obtained local siting approval under the provisions of this  
9 Section shall be required to obtain such approval after a final  
10 decision on an appeal of a permit denial.

11 (k) A county board or governing body of a municipality may  
12 charge applicants for siting review under this Section a  
13 reasonable fee to cover the reasonable and necessary costs  
14 incurred by such county or municipality in the siting review  
15 process.

16 (l) The governing Authority as determined by subsection (c)  
17 of Section 39 of this Act may request the Department of  
18 Transportation to perform traffic impact studies of proposed or  
19 potential locations for required pollution control facilities.

20 (m) An applicant may not file a request for local siting  
21 approval which is substantially the same as a request which was  
22 disapproved pursuant to a finding against the applicant under  
23 any of criteria (i) through (ix) of subsection (a) of this  
24 Section within the preceding 2 years.

25 (n) In any review proceeding of a decision of the county  
26 board or governing body of a municipality made pursuant to the  
27 local siting review process, the petitioner in the review  
28 proceeding shall pay to the county or municipality the cost of  
29 preparing and certifying the record of proceedings. Should the  
30 petitioner in the review proceeding fail to make payment, the  
31 provisions of Section 3-109 of the Code of Civil Procedure  
32 shall apply.

33 In the event the petitioner is a citizens' group that  
34 participated in the siting proceeding and is so located as to  
35 be affected by the proposed facility, such petitioner shall be  
36 exempt from paying the costs of preparing and certifying the

1 record.

2 (o) Notwithstanding any other provision of this Section, a  
3 transfer station used exclusively for landscape waste, where  
4 landscape waste is held no longer than 24 hours from the time  
5 it was received, is not subject to the requirements of local  
6 siting approval under this Section, but is subject only to  
7 local zoning approval.

8 (Source: P.A. 94-591, eff. 8-15-05.)

9 (415 ILCS 115/Act rep.)

10 Section 10. The Illinois Pollution Prevention Act is  
11 repealed.

12 Section 95. No acceleration or delay. Where this Act makes  
13 changes in a statute that is represented in this Act by text  
14 that is not yet or no longer in effect (for example, a Section  
15 represented by multiple versions), the use of that text does  
16 not accelerate or delay the taking effect of (i) the changes  
17 made by this Act or (ii) provisions derived from any other  
18 Public Act.

19 Section 97. Applicability. The changes made by Section 5 of  
20 this amendatory Act of the 94th General Assembly apply only to  
21 siting applications filed on or after the effective date of  
22 this amendatory Act.

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.