



Environmental Health Committee

**Filed: 5/24/2007**

09500SB0184ham001

LRB095 05077 CMK 36792 a

1 AMENDMENT TO SENATE BILL 184

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 184 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Private Sewage Disposal Licensing Act is  
5 amended by changing Sections 3 and 7 as follows:

6 (225 ILCS 225/3) (from Ch. 111 1/2, par. 116.303)

7 Sec. 3. As used in this Act, unless the context otherwise  
8 requires:

9 (1) "Domestic Sewage" means waste water derived  
10 principally from dwellings, business or office buildings,  
11 institutions, food service establishments, and similar  
12 facilities.

13 (2) "Director" means Director of the Illinois Department of  
14 Public Health.

15 (3) "Department" means the Illinois Department of Public  
16 Health.

1           (4) "Human Wastes" means undigested food and by-products of  
2 metabolism which are passed out of the human body.

3           (5) "Person" means any individual, group of individuals,  
4 association, trust, partnership, corporation, person doing  
5 business under an assumed name, the State of Illinois or any  
6 Department thereof, or any other entity.

7           (6) "Population Equivalent" means an average waste loading  
8 equivalent to that produced by one person which is defined as  
9 100 gallons per day.

10          (7) "Private Sewage Disposal System" means any sewage  
11 handling or treatment facility receiving domestic sewage from  
12 less than 15 people or population equivalent and having a  
13 ground surface discharge or any sewage handling or treatment  
14 facility receiving domestic sewage and having no ground surface  
15 discharge.

16          (8) "Private Sewage Disposal System Installation  
17 Contractor" means any person constructing, installing,  
18 repairing, modifying, or maintaining private sewage disposal  
19 systems.

20          (9) "Property Owner" means the person in whose name legal  
21 title to the real estate is recorded.

22          (10) "Waste" means either human waste or domestic sewage or  
23 both.

24          (11) "Private Sewage Disposal System Pumping Contractor"  
25 means any person who cleans or pumps waste from a private  
26 sewage disposal system or hauls or disposes of wastes removed

1 therefrom.

2 (12) "NPDES" means the National Pollutant Discharge  
3 Elimination System.

4 (13) "Surface discharging private sewage disposal system"  
5 means a sewage disposal system that discharges directly into  
6 waters of the United States, as that term is used in the  
7 Federal Clean Water Act.

8 (Source: P.A. 84-670.)

9 (225 ILCS 225/7) (from Ch. 111 1/2, par. 116.307)

10 Sec. 7.

11 (a) The Department shall promulgate and publish and may  
12 from time to time amend a private sewage disposal code which  
13 shall include minimum standards for the design, construction,  
14 materials, operation and maintenance of private sewage  
15 disposal systems, for the transportation and disposal of wastes  
16 removed therefrom and for private sewage disposal system  
17 servicing equipment. In the preparation of the private sewage  
18 disposal code, the Department may consult with and request  
19 technical assistance from other state agencies, and shall  
20 consult with other technically qualified persons and with  
21 owners and operators of such services. Such technically  
22 qualified persons shall include representatives of the real  
23 estate, development, and building industries.

24 (b) The Department is expressly prohibited from amending  
25 the private sewage disposal code by rule if there are increases

1 in the land density requirements. Amendments that increase the  
2 land density requirements must be approved by the Illinois  
3 General Assembly.

4 (c) A surface discharging private sewage disposal system  
5 installed on or after January 1, 2008 must file a Notice of  
6 Intent with the Agency to allow coverage of the system under  
7 the State's blanket NPDES permit.

8 (1) No fee may be charged for the NPDES Permit required  
9 in this subsection (c).

10 (2) Maintenance and compliance must be demonstrated by  
11 the applicant on the Notice of Intent. Samples and  
12 measurements shall be required no more frequently than once  
13 per calendar year and shall be representative of the  
14 monitored activity.

15 (3) This subsection (c) shall not apply to a surface  
16 discharging private sewage disposal system installed  
17 before January 1, 2008.

18 (d) Except as provided in subsection (c) of this Section,  
19 before ~~Before~~ the adoption or amendment of the private sewage  
20 disposal code, the Department shall hold a public hearing with  
21 respect thereto. At least 20 days' notice for such public  
22 hearing shall be given by the Department in such manner as the  
23 Department considers adequate to bring such hearing to the  
24 attention of persons interested in such code. Notice of such  
25 public hearing shall be given by the Department to those who  
26 file a request for a notice of any such hearings.

1 (Source: P.A. 88-690, eff. 1-24-95.)

2 Section 10. The Environmental Protection Act is amended by  
3 changing Section 39 and by adding Section 3.487 as follows:

4 (415 ILCS 5/3.487 new)

5 Sec. 3.487. Surface discharging private sewage disposal  
6 system. "Surface discharging private sewage disposal system"  
7 means a sewage disposal system that discharges directly into  
8 waters of the United States as that term is used in the Federal  
9 Clean Water Act.

10 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

11 Sec. 39. Issuance of permits; procedures.

12 (a) When the Board has by regulation required a permit for  
13 the construction, installation, or operation of any type of  
14 facility, equipment, vehicle, vessel, or aircraft, the  
15 applicant shall apply to the Agency for such permit and it  
16 shall be the duty of the Agency to issue such a permit upon  
17 proof by the applicant that the facility, equipment, vehicle,  
18 vessel, or aircraft will not cause a violation of this Act or  
19 of regulations hereunder. The Agency shall adopt such  
20 procedures as are necessary to carry out its duties under this  
21 Section. In making its determinations on permit applications  
22 under this Section the Agency may consider prior adjudications  
23 of noncompliance with this Act by the applicant that involved a

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

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

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

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

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

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

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

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

1 provisions of this Act and regulations promulgated hereunder.  
2 Such operating permits shall expire 180 days after the date of  
3 such a request. The Board shall revise its regulations for the  
4 existing State air pollution operating permit program  
5 consistent with this provision by January 1, 1994.

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

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

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



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

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

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

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

25           Notwithstanding any provision of this Act or any rule  
26 adopted by the Agency in accordance with this Act, a surface

1 discharging private sewage disposal system installed on or  
2 after January 1, 2008 must file a Notice of Intent with the  
3 Agency to allow coverage of the system under the State's  
4 blanket NPDES permit.

5 (1) No fee may be charged for the NPDES Permit required  
6 in this subsection (b).

7 (2) Maintenance and compliance shall be demonstrated,  
8 by the applicant, on the Notice of Intent. Samples and  
9 measurements shall be required no more frequently than once  
10 per calendar year and shall be representative of the  
11 monitored activity.

12 (3) This subsection (b) shall not apply to a surface  
13 discharging private sewage disposal system installed  
14 before January 1, 2008.

15 (c) Except for those facilities owned or operated by  
16 sanitary districts organized under the Metropolitan Water  
17 Reclamation District Act, no permit for the development or  
18 construction of a new pollution control facility may be granted  
19 by the Agency unless the applicant submits proof to the Agency  
20 that the location of the facility has been approved by the  
21 County Board of the county if in an unincorporated area, or the  
22 governing body of the municipality when in an incorporated  
23 area, in which the facility is to be located in accordance with  
24 Section 39.2 of this Act.

25 In the event that siting approval granted pursuant to  
26 Section 39.2 has been transferred to a subsequent owner or

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

15 Beginning August 20, 1993, if the pollution control  
16 facility consists of a hazardous or solid waste disposal  
17 facility for which the proposed site is located in an  
18 unincorporated area of a county with a population of less than  
19 100,000 and includes all or a portion of a parcel of land that  
20 was, on April 1, 1993, adjacent to a municipality having a  
21 population of less than 5,000, then the local siting review  
22 required under this subsection (c) in conjunction with any  
23 permit applied for after that date shall be performed by the  
24 governing body of that adjacent municipality rather than the  
25 county board of the county in which the proposed site is  
26 located; and for the purposes of that local siting review, any

1 references in this Act to the county board shall be deemed to  
2 mean the governing body of that adjacent municipality;  
3 provided, however, that the provisions of this paragraph shall  
4 not apply to any proposed site which was, on April 1, 1993,  
5 owned in whole or in part by another municipality.

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

16 After January 1, 1994, if a solid waste disposal facility,  
17 any portion for which an operating permit has been issued by  
18 the Agency, has not accepted waste disposal for 5 or more  
19 consecutive calendars years, before that facility may accept  
20 any new or additional waste for disposal, the owner and  
21 operator must obtain a new operating permit under this Act for  
22 that facility unless the owner and operator have applied to the  
23 Agency for a permit authorizing the temporary suspension of  
24 waste acceptance. The Agency may not issue a new operation  
25 permit under this Act for the facility unless the applicant has  
26 submitted proof to the Agency that the location of the facility

1 has been approved or re-approved by the appropriate county  
2 board or municipal governing body under Section 39.2 of this  
3 Act after the facility ceased accepting waste.

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

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

25 The Agency may issue a permit for a municipal waste  
26 transfer station without requiring approval pursuant to

1 Section 39.2 provided that the following demonstration is made:

2 (1) the municipal waste transfer station was in  
3 existence on or before January 1, 1979 and was in  
4 continuous operation from January 1, 1979 to January 1,  
5 1993;

6 (2) the operator submitted a permit application to the  
7 Agency to develop and operate the municipal waste transfer  
8 station during April of 1994;

9 (3) the operator can demonstrate that the county board  
10 of the county, if the municipal waste transfer station is  
11 in an unincorporated area, or the governing body of the  
12 municipality, if the station is in an incorporated area,  
13 does not object to resumption of the operation of the  
14 station; and

15 (4) the site has local zoning approval.

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

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

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

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

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

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

26 (e) The Agency may issue UIC permits exclusively under this

1 subsection to persons owning or operating a facility for the  
2 underground injection of contaminants as defined under this  
3 Act.

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

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

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



1 permit explaining the basis for its decision.

2 (f) In making any determination pursuant to Section 9.1 of  
3 this Act:

4 (1) The Agency shall have authority to make the  
5 determination of any question required to be determined by  
6 the Clean Air Act, as now or hereafter amended, this Act,  
7 or the regulations of the Board, including the  
8 determination of the Lowest Achievable Emission Rate,  
9 Maximum Achievable Control Technology, or Best Available  
10 Control Technology, consistent with the Board's  
11 regulations, if any.

12 (2) The Agency shall, after conferring with the  
13 applicant, give written notice to the applicant of its  
14 proposed decision on the application including the terms  
15 and conditions of the permit to be issued and the facts,  
16 conduct or other basis upon which the Agency will rely to  
17 support its proposed action.

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

22 (g) The Agency shall include as conditions upon all permits  
23 issued for hazardous waste disposal sites such restrictions  
24 upon the future use of such sites as are reasonably necessary  
25 to protect public health and the environment, including  
26 permanent prohibition of the use of such sites for purposes

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

7 (h) A hazardous waste stream may not be deposited in a  
8 permitted hazardous waste site unless specific authorization  
9 is obtained from the Agency by the generator and disposal site  
10 owner and operator for the deposit of that specific hazardous  
11 waste stream. The Agency may grant specific authorization for  
12 disposal of hazardous waste streams only after the generator  
13 has reasonably demonstrated that, considering technological  
14 feasibility and economic reasonableness, the hazardous waste  
15 cannot be reasonably recycled for reuse, nor incinerated or  
16 chemically, physically or biologically treated so as to  
17 neutralize the hazardous waste and render it nonhazardous. In  
18 granting authorization under this Section, the Agency may  
19 impose such conditions as may be necessary to accomplish the  
20 purposes of the Act and are consistent with this Act and  
21 regulations promulgated by the Board hereunder. If the Agency  
22 refuses to grant authorization under this Section, the  
23 applicant may appeal as if the Agency refused to grant a  
24 permit, pursuant to the provisions of subsection (a) of Section  
25 40 of this Act. For purposes of this subsection (h), the term  
26 "generator" has the meaning given in Section 3.205 of this Act,

1 unless: (1) the hazardous waste is treated, incinerated, or  
2 partially recycled for reuse prior to disposal, in which case  
3 the last person who treats, incinerates, or partially recycles  
4 the hazardous waste prior to disposal is the generator; or (2)  
5 the hazardous waste is from a response action, in which case  
6 the person performing the response action is the generator.  
7 This subsection (h) does not apply to any hazardous waste that  
8 is restricted from land disposal under 35 Ill. Adm. Code 728.

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

21 (1) repeated violations of federal, State, or local  
22 laws, regulations, standards, or ordinances in the  
23 operation of waste management facilities or sites or clean  
24 construction or demolition debris fill operation  
25 facilities or sites; or

26 (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

1 permit issued by the Agency.

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

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

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

24 (m) The Agency may issue permits to persons owning or  
25 operating a facility for composting landscape waste. In  
26 granting such permits, the Agency may impose such conditions as

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

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

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

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

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

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

25 The Agency shall issue permits for such facilities upon  
26 receipt of an application that includes a legal description of

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

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

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

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

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

22 (5) the operation of the facility will include  
23 appropriate dust and odor control measures, limitations on  
24 operating hours, appropriate noise control measures for  
25 shredding, chipping and similar equipment, management  
26 procedures for composting, containment and disposal of

1 non-compostable wastes, procedures to be used for  
2 terminating operations at the site, and recordkeeping  
3 sufficient to document the amount of materials received,  
4 composted and otherwise disposed of; and

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

7 The Agency shall issue renewable permits of not longer than  
8 10 years in duration for the composting of landscape wastes, as  
9 defined in Section 3.155 of this Act, based on the above  
10 requirements.

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

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

20 (o) (Blank.)

21 (p) (1) Any person submitting an application for a permit  
22 for a new MSWLF unit or for a lateral expansion under  
23 subsection (t) of Section 21 of this Act for an existing MSWLF  
24 unit that has not received and is not subject to local siting  
25 approval under Section 39.2 of this Act shall publish notice of  
26 the application in a newspaper of general circulation in the



1 county in which the MSWLF unit is or is proposed to be located.  
2 The notice must be published at least 15 days before submission  
3 of the permit application to the Agency. The notice shall state  
4 the name and address of the applicant, the location of the  
5 MSWLF unit or proposed MSWLF unit, the nature and size of the  
6 MSWLF unit or proposed MSWLF unit, the nature of the activity  
7 proposed, the probable life of the proposed activity, the date  
8 the permit application will be submitted, and a statement that  
9 persons may file written comments with the Agency concerning  
10 the permit application within 30 days after the filing of the  
11 permit application unless the time period to submit comments is  
12 extended by the Agency.

13 When a permit applicant submits information to the Agency  
14 to supplement a permit application being reviewed by the  
15 Agency, the applicant shall not be required to reissue the  
16 notice under this subsection.

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

21 (3) Each applicant for a permit described in part (1) of  
22 this subsection shall file a copy of the permit application  
23 with the county board or governing body of the municipality in  
24 which the MSWLF unit is or is proposed to be located at the  
25 same time the application is submitted to the Agency. The  
26 permit application filed with the county board or governing

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

10 (Source: P.A. 93-575, eff. 1-1-04; 94-272, eff. 7-19-05;  
11 94-725, eff. 6-1-06.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law."