



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1868

Introduced 2/15/2013, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.330	was 415 ILCS 5/3.32
415 ILCS 5/39	from Ch. 111 1/2, par. 1039
415 ILCS 5/39.2	from Ch. 111 1/2, par. 1039.2
415 ILCS 5/39.2a new	

Amends the Environmental Protection Act. Specifies that any any site or facility for the treatment, storage, or disposal of polychlorinated biphenyls (PCBs) or PCB Items regulated under Subpart D of 40 C.F.R. 761 that is located less than 500 feet above an aquifer that currently provides the only source of potable water for a community water supply is a pollution control facility. Provides that, in the case of a site or facility for the treatment, storage, or disposal of polychlorinated biphenyls (PCBs) or PCB Items regulated under Subpart D of 40 C.F.R. 761 that is located less than 500 feet above an aquifer that currently provides the only source of potable water for a community water supply, local siting approval must be obtained by the county board of each county located, in whole or part, within the aquifer's boundaries and the governing body of each municipality located, in whole or part, within the aquifer's boundaries. Provides that no site or facility for the treatment, storage, or disposal of polychlorinated biphenyls (PCBs) or PCB Items regulated under Subpart D of 40 C.F.R. 761 that is located less than 500 feet above an aquifer that currently provides the only source of potable water for a community water supply shall commence or continue treating, storing, disposing of, or accepting for treatment, storage, or disposal any polychlorinated biphenyls (PCBs) or PCB Items, unless the owner or operator of that site or facility submits proof to the Agency that the operation of the facility on and after the effective date of the amendatory Act has been approved by ordinances duly adopted by the county board of each county located, in or whole in part, within the aquifer's boundaries and the governing body of each municipality located, in or whole or part, within the aquifer's boundaries. Effective immediately.

LRB098 10672 JDS 40975 b

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 adding Section 39.2a and changing Sections 3.330, 39, and 39.2
6 as follows:

7 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

8 Sec. 3.330. Pollution control facility.

9 (a) "Pollution control facility" is any waste storage site,
10 sanitary landfill, waste disposal site, waste transfer
11 station, waste treatment facility, or waste incinerator. This
12 includes sewers, sewage treatment plants, and any other
13 facilities owned or operated by sanitary districts organized
14 under the Metropolitan Water Reclamation District Act.

15 The following are not pollution control facilities:

16 (1) (blank);

17 (2) waste storage sites regulated under 40 CFR, Part
18 761.42;

19 (3) sites or facilities used by any person conducting a
20 waste storage, waste treatment, waste disposal, waste
21 transfer or waste incineration operation, or a combination
22 thereof, for wastes generated by such person's own
23 activities, when such wastes are stored, treated, disposed

1 of, transferred or incinerated within the site or facility
2 owned, controlled or operated by such person, or when such
3 wastes are transported within or between sites or
4 facilities owned, controlled or operated by such person;

5 (4) sites or facilities at which the State is
6 performing removal or remedial action pursuant to Section
7 22.2 or 55.3;

8 (5) abandoned quarries used solely for the disposal of
9 concrete, earth materials, gravel, or aggregate debris
10 resulting from road construction activities conducted by a
11 unit of government or construction activities due to the
12 construction and installation of underground pipes, lines,
13 conduit or wires off of the premises of a public utility
14 company which are conducted by a public utility;

15 (6) sites or facilities used by any person to
16 specifically conduct a landscape composting operation;

17 (7) regional facilities as defined in the Central
18 Midwest Interstate Low-Level Radioactive Waste Compact;

19 (8) the portion of a site or facility where coal
20 combustion wastes are stored or disposed of in accordance
21 with subdivision (r) (2) or (r) (3) of Section 21;

22 (9) the portion of a site or facility used for the
23 collection, storage or processing of waste tires as defined
24 in Title XIV;

25 (10) the portion of a site or facility used for
26 treatment of petroleum contaminated materials by

1 application onto or incorporation into the soil surface and
2 any portion of that site or facility used for storage of
3 petroleum contaminated materials before treatment. Only
4 those categories of petroleum listed in Section 57.9(a)(3)
5 are exempt under this subdivision (10);

6 (11) the portion of a site or facility where used oil
7 is collected or stored prior to shipment to a recycling or
8 energy recovery facility, provided that the used oil is
9 generated by households or commercial establishments, and
10 the site or facility is a recycling center or a business
11 where oil or gasoline is sold at retail;

12 (11.5) processing sites or facilities that receive
13 only on-specification used oil, as defined in 35 Ill.
14 Admin. Code 739, originating from used oil collectors for
15 processing that is managed under 35 Ill. Admin. Code 739 to
16 produce products for sale to off-site petroleum
17 facilities, if these processing sites or facilities are:
18 (i) located within a home rule unit of local government
19 with a population of at least 30,000 according to the 2000
20 federal census, that home rule unit of local government has
21 been designated as an Urban Round II Empowerment Zone by
22 the United States Department of Housing and Urban
23 Development, and that home rule unit of local government
24 has enacted an ordinance approving the location of the site
25 or facility and provided funding for the site or facility;
26 and (ii) in compliance with all applicable zoning

1 requirements;

2 (12) the portion of a site or facility utilizing coal
3 combustion waste for stabilization and treatment of only
4 waste generated on that site or facility when used in
5 connection with response actions pursuant to the federal
6 Comprehensive Environmental Response, Compensation, and
7 Liability Act of 1980, the federal Resource Conservation
8 and Recovery Act of 1976, or the Illinois Environmental
9 Protection Act or as authorized by the Agency;

10 (13) the portion of a site or facility that (i) accepts
11 exclusively general construction or demolition debris,
12 (ii) is located in a county with a population over
13 3,000,000 as of January 1, 2000 or in a county that is
14 contiguous to such a county, and (iii) is operated and
15 located in accordance with Section 22.38 of this Act;

16 (14) the portion of a site or facility, located within
17 a unit of local government that has enacted local zoning
18 requirements, used to accept, separate, and process
19 uncontaminated broken concrete, with or without protruding
20 metal bars, provided that the uncontaminated broken
21 concrete and metal bars are not speculatively accumulated,
22 are at the site or facility no longer than one year after
23 their acceptance, and are returned to the economic
24 mainstream in the form of raw materials or products;

25 (15) the portion of a site or facility located in a
26 county with a population over 3,000,000 that has obtained

1 local siting approval under Section 39.2 of this Act for a
2 municipal waste incinerator on or before July 1, 2005 and
3 that is used for a non-hazardous waste transfer station;

4 (16) a site or facility that temporarily holds in
5 transit for 10 days or less, non-putrescible solid waste in
6 original containers, no larger in capacity than 500
7 gallons, provided that such waste is further transferred to
8 a recycling, disposal, treatment, or storage facility on a
9 non-contiguous site and provided such site or facility
10 complies with the applicable 10-day transfer requirements
11 of the federal Resource Conservation and Recovery Act of
12 1976 and United States Department of Transportation
13 hazardous material requirements. For purposes of this
14 Section only, "non-putrescible solid waste" means waste
15 other than municipal garbage that does not rot or become
16 putrid, including, but not limited to, paints, solvent,
17 filters, and absorbents;

18 (17) the portion of a site or facility located in a
19 county with a population greater than 3,000,000 that has
20 obtained local siting approval, under Section 39.2 of this
21 Act, for a municipal waste incinerator on or before July 1,
22 2005 and that is used for wood combustion facilities for
23 energy recovery that accept and burn only wood material, as
24 included in a fuel specification approved by the Agency;

25 (18) a transfer station used exclusively for landscape
26 waste, including a transfer station where landscape waste

1 is ground to reduce its volume, where the landscape waste
2 is held no longer than 24 hours from the time it was
3 received;

4 (19) the portion of a site or facility that (i) is used
5 for the composting of food scrap, livestock waste, crop
6 residue, uncontaminated wood waste, or paper waste,
7 including, but not limited to, corrugated paper or
8 cardboard, and (ii) meets all of the following
9 requirements:

10 (A) There must not be more than a total of 30,000
11 cubic yards of livestock waste in raw form or in the
12 process of being composted at the site or facility at
13 any one time.

14 (B) All food scrap, livestock waste, crop residue,
15 uncontaminated wood waste, and paper waste must, by the
16 end of each operating day, be processed and placed into
17 an enclosed vessel in which air flow and temperature
18 are controlled, or all of the following additional
19 requirements must be met:

20 (i) The portion of the site or facility used
21 for the composting operation must include a
22 setback of at least 200 feet from the nearest
23 potable water supply well.

24 (ii) The portion of the site or facility used
25 for the composting operation must be located
26 outside the boundary of the 10-year floodplain or

1 floodproofed.

2 (iii) The portion of the site or facility used
3 for the composting operation must be located at
4 least one-eighth of a mile from the nearest
5 residence, other than a residence located on the
6 same property as the site or facility.

7 (iv) The portion of the site or facility used
8 for the composting operation must be located at
9 least one-eighth of a mile from the property line
10 of all of the following areas:

11 (I) Facilities that primarily serve to
12 house or treat people that are
13 immunocompromised or immunosuppressed, such as
14 cancer or AIDS patients; people with asthma,
15 cystic fibrosis, or bioaerosol allergies; or
16 children under the age of one year.

17 (II) Primary and secondary schools and
18 adjacent areas that the schools use for
19 recreation.

20 (III) Any facility for child care licensed
21 under Section 3 of the Child Care Act of 1969;
22 preschools; and adjacent areas that the
23 facilities or preschools use for recreation.

24 (v) By the end of each operating day, all food
25 scrap, livestock waste, crop residue,
26 uncontaminated wood waste, and paper waste must be

1 (i) processed into windrows or other piles and (ii)
2 covered in a manner that prevents scavenging by
3 birds and animals and that prevents other
4 nuisances.

5 (C) Food scrap, livestock waste, crop residue,
6 uncontaminated wood waste, paper waste, and compost
7 must not be placed within 5 feet of the water table.

8 (D) The site or facility must meet all of the
9 requirements of the Wild and Scenic Rivers Act (16
10 U.S.C. 1271 et seq.).

11 (E) The site or facility must not (i) restrict the
12 flow of a 100-year flood, (ii) result in washout of
13 food scrap, livestock waste, crop residue,
14 uncontaminated wood waste, or paper waste from a
15 100-year flood, or (iii) reduce the temporary water
16 storage capacity of the 100-year floodplain, unless
17 measures are undertaken to provide alternative storage
18 capacity, such as by providing lagoons, holding tanks,
19 or drainage around structures at the facility.

20 (F) The site or facility must not be located in any
21 area where it may pose a threat of harm or destruction
22 to the features for which:

23 (i) an irreplaceable historic or
24 archaeological site has been listed under the
25 National Historic Preservation Act (16 U.S.C. 470
26 et seq.) or the Illinois Historic Preservation

1 Act;

2 (ii) a natural landmark has been designated by
3 the National Park Service or the Illinois State
4 Historic Preservation Office; or

5 (iii) a natural area has been designated as a
6 Dedicated Illinois Nature Preserve under the
7 Illinois Natural Areas Preservation Act.

8 (G) The site or facility must not be located in an
9 area where it may jeopardize the continued existence of
10 any designated endangered species, result in the
11 destruction or adverse modification of the critical
12 habitat for such species, or cause or contribute to the
13 taking of any endangered or threatened species of
14 plant, fish, or wildlife listed under the Endangered
15 Species Act (16 U.S.C. 1531 et seq.) or the Illinois
16 Endangered Species Protection Act;

17 (20) the portion of a site or facility that is located
18 entirely within a home rule unit having a population of no
19 less than 120,000 and no more than 135,000, according to
20 the 2000 federal census, and that meets all of the
21 following requirements:

22 (i) the portion of the site or facility is used
23 exclusively to perform testing of a thermochemical
24 conversion technology using only woody biomass,
25 collected as landscape waste within the boundaries
26 of the home rule unit, as the hydrocarbon feedstock

1 for the production of synthetic gas in accordance
2 with Section 39.9 of this Act;

3 (ii) the portion of the site or facility is in
4 compliance with all applicable zoning
5 requirements; and

6 (iii) a complete application for a
7 demonstration permit at the portion of the site or
8 facility has been submitted to the Agency in
9 accordance with Section 39.9 of this Act within one
10 year after July 27, 2010 (the effective date of
11 Public Act 96-1314);

12 (21) the portion of a site or facility used to perform
13 limited testing of a gasification conversion technology in
14 accordance with Section 39.8 of this Act and for which a
15 complete permit application has been submitted to the
16 Agency prior to one year from April 9, 2010 (the effective
17 date of Public Act 96-887); and

18 (22) the portion of a site or facility that is used to
19 incinerate only pharmaceuticals from residential sources
20 that are collected and transported by law enforcement
21 agencies under Section 17.9A of this Act.

22 (a-5) Notwithstanding any provision of subsection (a) of
23 this Section to the contrary, any site or facility for the
24 treatment, storage, or disposal of polychlorinated biphenyls
25 (PCBs) or PCB Items regulated under Subpart D of 40 C.F.R. 761
26 that is located less than 500 feet above an aquifer that

1 currently provides the only source of potable water for a
2 community water supply is a pollution control facility.

3 (b) A new pollution control facility is:

4 (1) a pollution control facility initially permitted
5 for development or construction after July 1, 1981; or

6 (2) the area of expansion beyond the boundary of a
7 currently permitted pollution control facility; or

8 (3) a permitted pollution control facility requesting
9 approval to store, dispose of, transfer or incinerate, for
10 the first time, any special or hazardous waste.

11 (Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09;
12 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff.
13 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545,
14 eff. 1-1-12.)

15 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

16 Sec. 39. Issuance of permits; procedures.

17 (a) When the Board has by regulation required a permit for
18 the construction, installation, or operation of any type of
19 facility, equipment, vehicle, vessel, or aircraft, the
20 applicant shall apply to the Agency for such permit and it
21 shall be the duty of the Agency to issue such a permit upon
22 proof by the applicant that the facility, equipment, vehicle,
23 vessel, or aircraft will not cause a violation of this Act or
24 of regulations hereunder. The Agency shall adopt such
25 procedures as are necessary to carry out its duties under this

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

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

21 (ii) the provision of the regulations, promulgated
22 under this Act, which may be violated if the permit were
23 granted;

24 (iii) the specific type of information, if any, which
25 the Agency deems the applicant did not provide the Agency;
26 and

1 (iv) a statement of specific reasons why the Act and
2 the regulations might not be met if the permit were
3 granted.

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

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

24 After January 1, 1994 and until July 1, 1998, operating
25 permits issued under this Section by the Agency for sources of
26 air pollution permitted to emit less than 25 tons per year of

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

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

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

26 All NPDES permits shall contain those terms and conditions,

1 including but not limited to schedules of compliance, which may
2 be required to accomplish the purposes and provisions of this
3 Act.

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

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

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

22 The Agency, subject to any conditions which may be
23 prescribed by Board regulations, may issue NPDES permits to
24 allow discharges beyond deadlines established by this Act or by
25 regulations of the Board without the requirement of a variance,
26 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 ~~appropriate governing bodies County Board of the county if in~~
9 ~~an unincorporated area, or the governing body of the~~
10 ~~municipality when in an incorporated area, in which the~~
11 ~~facility is to be located~~ in accordance with Section 39.2 of
12 this Act. For purposes of this subsection (c), and for purposes
13 of Section 39.2 of this Act, the appropriate governing bodies
14 ~~appropriate county board or governing body of the municipality~~
15 shall be: (i) except as provided in item (ii), for
16 unincorporated areas, the county board of the county in which
17 the facility is to be located as of the date when the
18 application for siting approval is filed or, for incorporated
19 areas, the governing body of the municipality in which the
20 facility is to be located as of the date when the application
21 for siting approval is filed and (ii) in the case of a site or
22 facility for the treatment, storage, or disposal of
23 polychlorinated biphenyls (PCBs) or PCB Items regulated under
24 Subpart D of 40 C.F.R. 761 that is located less than 500 feet
25 above an aquifer that currently provides the only source of
26 potable water for a community water supply, the county board of

1 each county located, in or whole in part, within the aquifer's
2 boundaries and the governing body of each municipality located,
3 in or whole or part, within the aquifer's boundaries.

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

20 Beginning August 20, 1993, if the pollution control
21 facility consists of a hazardous or solid waste disposal
22 facility for which the proposed site is located in an
23 unincorporated area of a county with a population of less than
24 100,000 and includes all or a portion of a parcel of land that
25 was, on April 1, 1993, adjacent to a municipality having a
26 population of less than 5,000, then the local siting review

1 required under this subsection (c) in conjunction with any
2 permit applied for after that date shall be performed by the
3 governing body of that adjacent municipality rather than the
4 county board of the county in which the proposed site is
5 located; and for the purposes of that local siting review, any
6 references in this Act to the county board shall be deemed to
7 mean the governing body of that adjacent municipality;
8 provided, however, that the provisions of this paragraph shall
9 not apply to any proposed site which was, on April 1, 1993,
10 owned in whole or in part by another municipality or to any
11 site or facility for the treatment, storage, or disposal of
12 polychlorinated biphenyls (PCBs) or PCB Items regulated under
13 Subpart D of 40 C.F.R. 761 that is located less than 500 feet
14 above an aquifer that currently provides the only source of
15 potable water for a community water supply.

16 In the case of a pollution control facility for which a
17 development permit was issued before November 12, 1981, if an
18 operating permit has not been issued by the Agency prior to
19 August 31, 1989 for any portion of the facility, then the
20 Agency may not issue or renew any development permit nor issue
21 an original operating permit for any portion of such facility
22 unless the applicant has submitted proof to the Agency that the
23 location of the facility has been approved by the appropriate
24 county board or municipal governing body pursuant to Section
25 39.2 of this Act.

26 After January 1, 1994, if a solid waste disposal facility,

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

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

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

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

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

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

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

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

25 (4) the site has local zoning approval.

26 (d) The Agency may issue RCRA permits exclusively under

1 this subsection to persons owning or operating a facility for
2 the treatment, storage, or disposal of hazardous waste as
3 defined under this Act.

4 All RCRA 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 Resource Conservation and Recovery Act of 1976
10 (P.L. 94-580), as amended, and regulations pursuant thereto,
11 and may include schedules for achieving compliance therewith as
12 soon as possible. The Agency shall require that a performance
13 bond or other security be provided as a condition for the
14 issuance of a RCRA permit.

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

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

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

10 (e) The Agency may issue UIC permits exclusively under this
11 subsection to persons owning or operating a facility for the
12 underground injection of contaminants as defined under this
13 Act.

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

24 The Agency shall adopt filing requirements and procedures
25 which are necessary and appropriate for the issuance of UIC
26 permits, and which are consistent with the Act or regulations

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

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

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

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

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

1 support its proposed action.

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

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

17 (h) A hazardous waste stream may not be deposited in a
18 permitted hazardous waste site unless specific authorization
19 is obtained from the Agency by the generator and disposal site
20 owner and operator for the deposit of that specific hazardous
21 waste stream. The Agency may grant specific authorization for
22 disposal of hazardous waste streams only after the generator
23 has reasonably demonstrated that, considering technological
24 feasibility and economic reasonableness, the hazardous waste
25 cannot be reasonably recycled for reuse, nor incinerated or
26 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

1 debris fill operations. The Agency may deny such a permit, or
2 deny or revoke interim authorization, if the prospective owner
3 or operator or any employee or officer of the prospective owner
4 or operator has a history of:

5 (1) repeated violations of federal, State, or local
6 laws, regulations, standards, or ordinances in the
7 operation of waste management facilities or sites or clean
8 construction or demolition debris fill operation
9 facilities or sites; or

10 (2) conviction in this or another State of any crime
11 which is a felony under the laws of this State, or
12 conviction of a felony in a federal court; or conviction in
13 this or another state or federal court of any of the
14 following crimes: forgery, official misconduct, bribery,
15 perjury, or knowingly submitting false information under
16 any environmental law, regulation, or permit term or
17 condition; or

18 (3) proof of gross carelessness or incompetence in
19 handling, storing, processing, transporting or disposing
20 of waste or clean construction or demolition debris, or
21 proof of gross carelessness or incompetence in using clean
22 construction or demolition debris as fill.

23 (i-5) Before issuing any permit or approving any interim
24 authorization for a clean construction or demolition debris
25 fill operation in which any ownership interest is transferred
26 between January 1, 2005, and the effective date of the

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

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

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

1 deemed to begin on the date upon which such review process or
2 litigation is concluded.

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

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

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

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

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

1 Agency; and

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

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

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

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

17 (2) the facility is located outside the boundary of the
18 10-year floodplain or the site will be floodproofed;

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

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

6 (5) the operation of the facility will include
7 appropriate dust and odor control measures, limitations on
8 operating hours, appropriate noise control measures for
9 shredding, chipping and similar equipment, management
10 procedures for composting, containment and disposal of
11 non-compostable wastes, procedures to be used for
12 terminating operations at the site, and recordkeeping
13 sufficient to document the amount of materials received,
14 composted and otherwise disposed of; and

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

17 The Agency shall issue renewable permits of not longer than
18 10 years in duration for the composting of landscape wastes, as
19 defined in Section 3.155 of this Act, based on the above
20 requirements.

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

26 (n) The Agency shall issue permits jointly with the

1 Department of Transportation for the dredging or deposit of
2 material in Lake Michigan in accordance with Section 18 of the
3 Rivers, Lakes, and Streams Act.

4 (o) (Blank.)

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

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

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

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

20 (q) Within 6 months after the effective date of this
21 amendatory Act of the 97th General Assembly, the Agency, in
22 consultation with the regulated community, shall develop a web
23 portal to be posted on its website for the purpose of enhancing
24 review and promoting timely issuance of permits required by
25 this Act. At a minimum, the Agency shall make the following
26 information available on the web portal:

1 (1) Checklists and guidance relating to the completion
2 of permit applications, developed pursuant to subsection
3 (s) of this Section, which may include, but are not limited
4 to, existing instructions for completing the applications
5 and examples of complete applications. As the Agency
6 develops new checklists and develops guidance, it shall
7 supplement the web portal with those materials.

8 (2) Within 2 years after the effective date of this
9 amendatory Act of the 97th General Assembly, permit
10 application forms or portions of permit applications that
11 can be completed and saved electronically, and submitted to
12 the Agency electronically with digital signatures.

13 (3) Within 2 years after the effective date of this
14 amendatory Act of the 97th General Assembly, an online
15 tracking system where an applicant may review the status of
16 its pending application, including the name and contact
17 information of the permit analyst assigned to the
18 application. Until the online tracking system has been
19 developed, the Agency shall post on its website semi-annual
20 permitting efficiency tracking reports that include
21 statistics on the timeframes for Agency action on the
22 following types of permits received after the effective
23 date of this amendatory Act of the 97th General Assembly:
24 air construction permits, new NPDES permits and associated
25 water construction permits, and modifications of major
26 NPDES permits and associated water construction permits.

1 The reports must be posted by February 1 and August 1 each
2 year and shall include:

3 (A) the number of applications received for each
4 type of permit, the number of applications on which the
5 Agency has taken action, and the number of applications
6 still pending; and

7 (B) for those applications where the Agency has not
8 taken action in accordance with the timeframes set
9 forth in this Act, the date the application was
10 received and the reasons for any delays, which may
11 include, but shall not be limited to, (i) the
12 application being inadequate or incomplete, (ii)
13 scientific or technical disagreements with the
14 applicant, USEPA, or other local, state, or federal
15 agencies involved in the permitting approval process,
16 (iii) public opposition to the permit, or (iv) Agency
17 staffing shortages. To the extent practicable, the
18 tracking report shall provide approximate dates when
19 cause for delay was identified by the Agency, when the
20 Agency informed the applicant of the problem leading to
21 the delay, and when the applicant remedied the reason
22 for the delay.

23 (r) Upon the request of the applicant, the Agency shall
24 notify the applicant of the permit analyst assigned to the
25 application upon its receipt.

26 (s) The Agency is authorized to prepare and distribute

1 guidance documents relating to its administration of this
2 Section and procedural rules implementing this Section.
3 Guidance documents prepared under this subsection shall not be
4 considered rules and shall not be subject to the Illinois
5 Administrative Procedure Act. Such guidance shall not be
6 binding on any party.

7 (t) Except as otherwise prohibited by federal law or
8 regulation, any person submitting an application for a permit
9 may include with the application suggested permit language for
10 Agency consideration. The Agency is not obligated to use the
11 suggested language or any portion thereof in its permitting
12 decision. If requested by the permit applicant, the Agency
13 shall meet with the applicant to discuss the suggested
14 language.

15 (u) If requested by the permit applicant, the Agency shall
16 provide the permit applicant with a copy of the draft permit
17 prior to any public review period.

18 (v) If requested by the permit applicant, the Agency shall
19 provide the permit applicant with a copy of the final permit
20 prior to its issuance.

21 (w) An air pollution permit shall not be required due to
22 emissions of greenhouse gases, as specified by Section 9.15 of
23 this Act.

24 (Source: P.A. 97-95, eff. 7-12-11.)

25 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

1 Sec. 39.2. Local siting review.

2 (a) The appropriate governing bodies ~~county board of the~~
3 ~~county or the governing body of the municipality~~, as determined
4 by paragraph (c) of Section 39 of this Act, shall approve or
5 disapprove the request for local siting approval for each
6 pollution control facility which is subject to such review. An
7 applicant for local siting approval shall submit sufficient
8 details describing the proposed facility to demonstrate
9 compliance, and local siting approval shall be granted only if
10 the proposed facility meets the following criteria:

11 (i) the facility is necessary to accommodate the waste
12 needs of the area it is intended to serve;

13 (ii) the facility is so designed, located and proposed
14 to be operated that the public health, safety and welfare
15 will be protected;

16 (iii) the facility is located so as to minimize
17 incompatibility with the character of the surrounding area
18 and to minimize the effect on the value of the surrounding
19 property;

20 (iv) (A) for a facility other than a sanitary landfill
21 or waste disposal site, the facility is located outside the
22 boundary of the 100 year flood plain or the site is
23 flood-proofed; (B) for a facility that is a sanitary
24 landfill or waste disposal site, the facility is located
25 outside the boundary of the 100-year floodplain, or if the
26 facility is a facility described in subsection (b) (3) of

1 Section 22.19a, the site is flood-proofed;

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

5 (vi) the traffic patterns to or from the facility are
6 so designed as to minimize the impact on existing traffic
7 flows;

8 (vii) if the facility will be treating, storing or
9 disposing of hazardous waste, an emergency response plan
10 exists for the facility which includes notification,
11 containment and evacuation procedures to be used in case of
12 an accidental release;

13 (viii) if the facility is to be located in a county
14 where the county board has adopted a solid waste management
15 plan consistent with the planning requirements of the Local
16 Solid Waste Disposal Act or the Solid Waste Planning and
17 Recycling Act, the facility is consistent with that plan;
18 for purposes of this criterion (viii), the "solid waste
19 management plan" means the plan that is in effect as of the
20 date the application for siting approval is filed; and

21 (ix) if the facility will be located within a regulated
22 recharge area, any applicable requirements specified by
23 the Board for such areas have been met.

24 The appropriate governing bodies ~~county board or the~~
25 ~~governing body of the municipality~~ may also consider as
26 evidence the previous operating experience and past record of

1 convictions or admissions of violations of the applicant (and
2 any subsidiary or parent corporation) in the field of solid
3 waste management when considering criteria (ii) and (v) under
4 this Section.

5 If the facility is subject to the location restrictions in
6 Section 22.14 of this Act, compliance with that Section shall
7 be determined as of the date the application for siting
8 approval is filed.

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

25 Such written notice shall also be served upon members of
26 the General Assembly from the legislative district in which the

1 proposed facility is located and shall be published in a
2 newspaper of general circulation published in the county in
3 which the site is located.

4 Such notice shall state the name and address of the
5 applicant, the location of the proposed site, the nature and
6 size of the development, the nature of the activity proposed,
7 the probable life of the proposed activity, the date when the
8 request for site approval will be submitted, and a description
9 of the right of persons to comment on such request as hereafter
10 provided.

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

23 Any person may file written comment with the appropriate
24 governing bodies ~~county board or governing body of the~~
25 ~~municipality~~ concerning the appropriateness of the proposed
26 site for its intended purpose. The appropriate governing bodies

1 ~~county board or governing body of the municipality~~ shall
2 consider any comment received or postmarked not later than 30
3 days after the date of the last public hearing.

4 (d) At least one public hearing is to be held by the
5 appropriate governing bodies ~~county board or governing body of~~
6 ~~the municipality~~ no sooner than 90 days but no later than 120
7 days after the date on which it received the request for site
8 approval. No later than 14 days prior to such hearing, notice
9 shall be published in a newspaper of general circulation
10 published in the county of the proposed site, and delivered by
11 certified mail to all members of the General Assembly from the
12 district in which the proposed site is located, to the
13 governing authority of every municipality contiguous to the
14 proposed site or contiguous to the municipality in which the
15 proposed site is to be located, to the county board of the
16 county where the proposed site is to be located, if the
17 proposed site is located within the boundaries of a
18 municipality, and to the Agency. Members or representatives of
19 the governing authority of a municipality contiguous to the
20 proposed site or contiguous to the municipality in which the
21 proposed site is to be located and, if the proposed site is
22 located in a municipality, members or representatives of the
23 county board of a county in which the proposed site is to be
24 located may appear at and participate in public hearings held
25 pursuant to this Section. The public hearing shall develop a
26 record sufficient to form the basis of appeal of the decision

1 in accordance with Section 40.1 of this Act. The fact that a
2 member of a ~~the~~ county board or governing body of a ~~the~~
3 municipality has publicly expressed an opinion on an issue
4 related to a site review proceeding shall not preclude the
5 member from taking part in the proceeding and voting on the
6 issue.

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

23 At any time prior to completion by the applicant of the
24 presentation of the applicant's factual evidence and an
25 opportunity for cross-questioning by the appropriate governing
26 bodies ~~county board or governing body of the municipality~~ and

1 any participants, the applicant may file not more than one
2 amended application upon payment of additional fees pursuant to
3 subsection (k); in which case the time limitation for final
4 action set forth in this subsection (e) shall be extended for
5 an additional period of 90 days.

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

17 (e-5) Siting approval obtained pursuant to this Section is
18 transferable and may be transferred to a subsequent owner or
19 operator. In the event that siting approval has been
20 transferred to a subsequent owner or operator, that subsequent
21 owner or operator assumes and takes subject to any and all
22 conditions imposed upon the prior owner or operator by the
23 county board of the county or governing body of the
24 municipality pursuant to subsection (e). However, any such
25 conditions imposed pursuant to this Section may be modified by
26 agreement between the subsequent owner or operator and the

1 appropriate county board or governing body. Further, in the
2 event that siting approval obtained pursuant to this Section
3 has been transferred to a subsequent owner or operator, that
4 subsequent owner or operator assumes all rights and obligations
5 and takes the facility subject to any and all terms and
6 conditions of any existing host agreement between the prior
7 owner or operator and the appropriate county board or governing
8 body.

9 (f) A local siting approval granted under this Section
10 shall expire at the end of 2 calendar years from the date upon
11 which it was granted, unless the local siting approval granted
12 under this Section is for a sanitary landfill operation, in
13 which case the approval shall expire at the end of 3 calendar
14 years from the date upon which it was granted, and unless
15 within that period the applicant has made application to the
16 Agency for a permit to develop the site. In the event that the
17 local siting decision has been appealed, such expiration period
18 shall be deemed to begin on the date upon which the appeal
19 process is concluded.

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

24 If a first development permit for a municipal waste
25 incineration facility expires under subsection (k) of Section
26 39 after September 30, 1989 due to circumstances beyond the

1 control of the applicant, any associated local siting approval
2 granted for the facility under this Section may be used to
3 fulfill the local siting approval requirement upon application
4 for a second development permit for the same site, provided
5 that the proposal in the new application is materially the
6 same, with respect to the criteria in subsection (a) of this
7 Section, as the proposal that received the original siting
8 approval, and application for the second development permit is
9 made before January 1, 1990.

10 (g) The siting approval procedures, criteria and appeal
11 procedures provided for in this Act for new pollution control
12 facilities shall be the exclusive siting procedures and rules
13 and appeal procedures for facilities subject to such
14 procedures. Local zoning or other local land use requirements
15 shall not be applicable to such siting decisions.

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

19 (i) (Blank.)

20 The Board shall adopt regulations establishing the
21 geologic and hydrologic siting criteria necessary to protect
22 usable groundwater resources which are to be followed by the
23 Agency in its review of permit applications for new pollution
24 control facilities. Such regulations, insofar as they apply to
25 new pollution control facilities authorized to store, treat or
26 dispose of any hazardous waste, shall be at least as stringent

1 as the requirements of the Resource Conservation and Recovery
2 Act and any State or federal regulations adopted pursuant
3 thereto.

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

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

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

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

22 (n) In any review proceeding of a decision of the county
23 board or governing body of a municipality made pursuant to the
24 local siting review process, the petitioner in the review
25 proceeding shall pay to the county or municipality the cost of
26 preparing and certifying the record of proceedings. Should the

1 petitioner in the review proceeding fail to make payment, the
2 provisions of Section 3-109 of the Code of Civil Procedure
3 shall apply.

4 In the event the petitioner is a citizens' group that
5 participated in the siting proceeding and is so located as to
6 be affected by the proposed facility, such petitioner shall be
7 exempt from paying the costs of preparing and certifying the
8 record.

9 (o) Notwithstanding any other provision of this Section, a
10 transfer station used exclusively for landscape waste, where
11 landscape waste is held no longer than 24 hours from the time
12 it was received, is not subject to the requirements of local
13 siting approval under this Section, but is subject only to
14 local zoning approval.

15 (Source: P.A. 94-591, eff. 8-15-05; 95-288, eff. 8-20-07.)

16 (415 ILCS 5/39.2a new)

17 Sec. 39.2a. Operational approval for PCB facilities
18 affecting community water supplies. Notwithstanding any other
19 provision of this Act, in order to protect the public health,
20 safety, and welfare of the people of the State of Illinois,
21 beginning on the effective date of this amendatory Act of the
22 98th General Assembly, no site or facility for the treatment,
23 storage, or disposal of polychlorinated biphenyls (PCBs) or PCB
24 Items regulated under Subpart D of 40 C.F.R. 761 that is
25 located less than 500 feet above an aquifer that currently

1 provides the only source of potable water for a community water
2 supply shall commence or continue treating, storing, disposing
3 of, or accepting for treatment, storage, or disposal any
4 polychlorinated biphenyls (PCBs) or PCB Items unless the owner
5 or operator of that site or facility submits proof to the
6 Agency that the operation of the facility on and after the
7 effective date of this amendatory Act of the 98th General
8 Assembly has been approved by ordinances duly adopted by the
9 county board of each county located, in or whole in part,
10 within the aquifer's boundaries and the governing body of each
11 municipality located, in or whole or part, within the aquifer's
12 boundaries.

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