



Sen. Chapin Rose

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1 AMENDMENT TO SENATE BILL 1868

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1868, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Environmental Protection Act is amended by  
6 changing Sections 3.330, 21, and 39.2 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);

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

3           (3) sites or facilities used by any person conducting a  
4           waste storage, waste treatment, waste disposal, waste  
5           transfer or waste incineration operation, or a combination  
6           thereof, for wastes generated by such person's own  
7           activities, when such wastes are stored, treated, disposed  
8           of, transferred or incinerated within the site or facility  
9           owned, controlled or operated by such person, or when such  
10          wastes are transported within or between sites or  
11          facilities owned, controlled or operated by such person;

12          (4) sites or facilities at which the State is  
13          performing removal or remedial action pursuant to Section  
14          22.2 or 55.3;

15          (5) abandoned quarries used solely for the disposal of  
16          concrete, earth materials, gravel, or aggregate debris  
17          resulting from road construction activities conducted by a  
18          unit of government or construction activities due to the  
19          construction and installation of underground pipes, lines,  
20          conduit or wires off of the premises of a public utility  
21          company which are conducted by a public utility;

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

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

26          (8) the portion of a site or facility where coal

1 combustion wastes are stored or disposed of in accordance  
2 with subdivision (r) (2) or (r) (3) of Section 21;

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

6 (10) the portion of a site or facility used for  
7 treatment of petroleum contaminated materials by  
8 application onto or incorporation into the soil surface and  
9 any portion of that site or facility used for storage of  
10 petroleum contaminated materials before treatment. Only  
11 those categories of petroleum listed in Section 57.9(a) (3)  
12 are exempt under this subdivision (10);

13 (11) the portion of a site or facility where used oil  
14 is collected or stored prior to shipment to a recycling or  
15 energy recovery facility, provided that the used oil is  
16 generated by households or commercial establishments, and  
17 the site or facility is a recycling center or a business  
18 where oil or gasoline is sold at retail;

19 (11.5) processing sites or facilities that receive  
20 only on-specification used oil, as defined in 35 Ill.  
21 Admin. Code 739, originating from used oil collectors for  
22 processing that is managed under 35 Ill. Admin. Code 739 to  
23 produce products for sale to off-site petroleum  
24 facilities, if these processing sites or facilities are:  
25 (i) located within a home rule unit of local government  
26 with a population of at least 30,000 according to the 2000

1 federal census, that home rule unit of local government has  
2 been designated as an Urban Round II Empowerment Zone by  
3 the United States Department of Housing and Urban  
4 Development, and that home rule unit of local government  
5 has enacted an ordinance approving the location of the site  
6 or facility and provided funding for the site or facility;  
7 and (ii) in compliance with all applicable zoning  
8 requirements;

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

17 (13) the portion of a site or facility that (i) accepts  
18 exclusively general construction or demolition debris,  
19 (ii) is located in a county with a population over  
20 3,000,000 as of January 1, 2000 or in a county that is  
21 contiguous to such a county, and (iii) is operated and  
22 located in accordance with Section 22.38 of this Act;

23 (14) the portion of a site or facility, located within  
24 a unit of local government that has enacted local zoning  
25 requirements, used to accept, separate, and process  
26 uncontaminated broken concrete, with or without protruding

1 metal bars, provided that the uncontaminated broken  
2 concrete and metal bars are not speculatively accumulated,  
3 are at the site or facility no longer than one year after  
4 their acceptance, and are returned to the economic  
5 mainstream in the form of raw materials or products;

6 (15) the portion of a site or facility located in a  
7 county with a population over 3,000,000 that has obtained  
8 local siting approval under Section 39.2 of this Act for a  
9 municipal waste incinerator on or before July 1, 2005 and  
10 that is used for a non-hazardous waste transfer station;

11 (16) a site or facility that temporarily holds in  
12 transit for 10 days or less, non-putrescible solid waste in  
13 original containers, no larger in capacity than 500  
14 gallons, provided that such waste is further transferred to  
15 a recycling, disposal, treatment, or storage facility on a  
16 non-contiguous site and provided such site or facility  
17 complies with the applicable 10-day transfer requirements  
18 of the federal Resource Conservation and Recovery Act of  
19 1976 and United States Department of Transportation  
20 hazardous material requirements. For purposes of this  
21 Section only, "non-putrescible solid waste" means waste  
22 other than municipal garbage that does not rot or become  
23 putrid, including, but not limited to, paints, solvent,  
24 filters, and absorbents;

25 (17) the portion of a site or facility located in a  
26 county with a population greater than 3,000,000 that has

1       obtained local siting approval, under Section 39.2 of this  
2       Act, for a municipal waste incinerator on or before July 1,  
3       2005 and that is used for wood combustion facilities for  
4       energy recovery that accept and burn only wood material, as  
5       included in a fuel specification approved by the Agency;

6       (18) a transfer station used exclusively for landscape  
7       waste, including a transfer station where landscape waste  
8       is ground to reduce its volume, where the landscape waste  
9       is held no longer than 24 hours from the time it was  
10      received;

11      (19) the portion of a site or facility that (i) is used  
12      for the composting of food scrap, livestock waste, crop  
13      residue, uncontaminated wood waste, or paper waste,  
14      including, but not limited to, corrugated paper or  
15      cardboard, and (ii) meets all of the following  
16      requirements:

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

21           (B) All food scrap, livestock waste, crop residue,  
22           uncontaminated wood waste, and paper waste must, by the  
23           end of each operating day, be processed and placed into  
24           an enclosed vessel in which air flow and temperature  
25           are controlled, or all of the following additional  
26           requirements must be met:

1           (i) The portion of the site or facility used  
2           for the composting operation must include a  
3           setback of at least 200 feet from the nearest  
4           potable water supply well.

5           (ii) The portion of the site or facility used  
6           for the composting operation must be located  
7           outside the boundary of the 10-year floodplain or  
8           floodproofed.

9           (iii) The portion of the site or facility used  
10          for the composting operation must be located at  
11          least one-eighth of a mile from the nearest  
12          residence, other than a residence located on the  
13          same property as the site or facility.

14          (iv) The portion of the site or facility used  
15          for the composting operation must be located at  
16          least one-eighth of a mile from the property line  
17          of all of the following areas:

18               (I) Facilities that primarily serve to  
19               house or treat people that are  
20               immunocompromised or immunosuppressed, such as  
21               cancer or AIDS patients; people with asthma,  
22               cystic fibrosis, or bioaerosol allergies; or  
23               children under the age of one year.

24               (II) Primary and secondary schools and  
25               adjacent areas that the schools use for  
26               recreation.

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

5 (v) By the end of each operating day, all food  
6 scrap, livestock waste, crop residue,  
7 uncontaminated wood waste, and paper waste must be  
8 (i) processed into windrows or other piles and (ii)  
9 covered in a manner that prevents scavenging by  
10 birds and animals and that prevents other  
11 nuisances.

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

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

18 (E) The site or facility must not (i) restrict the  
19 flow of a 100-year flood, (ii) result in washout of  
20 food scrap, livestock waste, crop residue,  
21 uncontaminated wood waste, or paper waste from a  
22 100-year flood, or (iii) reduce the temporary water  
23 storage capacity of the 100-year floodplain, unless  
24 measures are undertaken to provide alternative storage  
25 capacity, such as by providing lagoons, holding tanks,  
26 or drainage around structures at the facility.



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

4 (i) an irreplaceable historic or  
5 archaeological site has been listed under the  
6 National Historic Preservation Act (16 U.S.C. 470  
7 et seq.) or the Illinois Historic Preservation  
8 Act;

9 (ii) a natural landmark has been designated by  
10 the National Park Service or the Illinois State  
11 Historic Preservation Office; or

12 (iii) a natural area has been designated as a  
13 Dedicated Illinois Nature Preserve under the  
14 Illinois Natural Areas Preservation Act.

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

24 (20) the portion of a site or facility that is located  
25 entirely within a home rule unit having a population of no  
26 less than 120,000 and no more than 135,000, according to

1 the 2000 federal census, and that meets all of the  
2 following requirements:

3 (i) the portion of the site or facility is used  
4 exclusively to perform testing of a thermochemical  
5 conversion technology using only woody biomass,  
6 collected as landscape waste within the boundaries  
7 of the home rule unit, as the hydrocarbon feedstock  
8 for the production of synthetic gas in accordance  
9 with Section 39.9 of this Act;

10 (ii) the portion of the site or facility is in  
11 compliance with all applicable zoning  
12 requirements; and

13 (iii) a complete application for a  
14 demonstration permit at the portion of the site or  
15 facility has been submitted to the Agency in  
16 accordance with Section 39.9 of this Act within one  
17 year after July 27, 2010 (the effective date of  
18 Public Act 96-1314);

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

25 (22) the portion of a site or facility that is used to  
26 incinerate only pharmaceuticals from residential sources

1 that are collected and transported by law enforcement  
2 agencies under Section 17.9A of this Act.

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; or ~~or~~

11 (4) a permitted pollution control facility that first  
12 accepts, on or after the effective date of this amendatory  
13 Act of the 98th General Assembly, waste containing  
14 Polychlorinated Biphenyls (PCBs) or PCB items, the  
15 disposal of which is subject to prior approval by the U.S.  
16 Environmental Protection Agency in accordance with  
17 regulations promulgated to implement the Toxic Substances  
18 Control Act (40 CFR 761.75), if the proposal to dispose of  
19 the waste containing PCBs or PCB items at the facility has  
20 not been specifically reviewed and considered at a local  
21 siting review hearing conducted in accordance with Section  
22 39.2 of this Act.

23 (Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09;  
24 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff.  
25 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545,  
26 eff. 1-1-12.)

1 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

2 Sec. 21. Prohibited acts. No person shall:

3 (a) Cause or allow the open dumping of any waste.

4 (b) Abandon, dump, or deposit any waste upon the public  
5 highways or other public property, except in a sanitary  
6 landfill approved by the Agency pursuant to regulations adopted  
7 by the Board.

8 (c) Abandon any vehicle in violation of the "Abandoned  
9 Vehicles Amendment to the Illinois Vehicle Code", as enacted by  
10 the 76th General Assembly.

11 (d) Conduct any waste-storage, waste-treatment, or  
12 waste-disposal operation:

13 (1) without a permit granted by the Agency or in  
14 violation of any conditions imposed by such permit,  
15 including periodic reports and full access to adequate  
16 records and the inspection of facilities, as may be  
17 necessary to assure compliance with this Act and with  
18 regulations and standards adopted thereunder; provided,  
19 however, that, except for municipal solid waste landfill  
20 units that receive waste on or after October 9, 1993, no  
21 permit shall be required for (i) any person conducting a  
22 waste-storage, waste-treatment, or waste-disposal  
23 operation for wastes generated by such person's own  
24 activities which are stored, treated, or disposed within  
25 the site where such wastes are generated, or (ii) a

1 facility located in a county with a population over 700,000  
2 as of January 1, 2000, operated and located in accordance  
3 with Section 22.38 of this Act, and used exclusively for  
4 the transfer, storage, or treatment of general  
5 construction or demolition debris, provided that the  
6 facility was receiving construction or demolition debris  
7 on the effective date of this amendatory Act of the 96th  
8 General Assembly;

9 (2) in violation of any regulations or standards  
10 adopted by the Board under this Act; or

11 (3) which receives waste after August 31, 1988, does  
12 not have a permit issued by the Agency, and is (i) a  
13 landfill used exclusively for the disposal of waste  
14 generated at the site, (ii) a surface impoundment receiving  
15 special waste not listed in an NPDES permit, (iii) a waste  
16 pile in which the total volume of waste is greater than 100  
17 cubic yards or the waste is stored for over one year, or  
18 (iv) a land treatment facility receiving special waste  
19 generated at the site; without giving notice of the  
20 operation to the Agency by January 1, 1989, or 30 days  
21 after the date on which the operation commences, whichever  
22 is later, and every 3 years thereafter. The form for such  
23 notification shall be specified by the Agency, and shall be  
24 limited to information regarding: the name and address of  
25 the location of the operation; the type of operation; the  
26 types and amounts of waste stored, treated or disposed of

1 on an annual basis; the remaining capacity of the  
2 operation; and the remaining expected life of the  
3 operation.

4 Item (3) of this subsection (d) shall not apply to any  
5 person engaged in agricultural activity who is disposing of a  
6 substance that constitutes solid waste, if the substance was  
7 acquired for use by that person on his own property, and the  
8 substance is disposed of on his own property in accordance with  
9 regulations or standards adopted by the Board.

10 This subsection (d) shall not apply to hazardous waste.

11 (e) Dispose, treat, store or abandon any waste, or  
12 transport any waste into this State for disposal, treatment,  
13 storage or abandonment, except at a site or facility which  
14 meets the requirements of this Act and of regulations and  
15 standards thereunder.

16 (f) Conduct any hazardous waste-storage, hazardous  
17 waste-treatment or hazardous waste-disposal operation:

18 (1) without a RCRA permit for the site issued by the  
19 Agency under subsection (d) of Section 39 of this Act, or  
20 in violation of any condition imposed by such permit,  
21 including periodic reports and full access to adequate  
22 records and the inspection of facilities, as may be  
23 necessary to assure compliance with this Act and with  
24 regulations and standards adopted thereunder; or

25 (2) in violation of any regulations or standards  
26 adopted by the Board under this Act; or

1           (3) in violation of any RCRA permit filing requirement  
2           established under standards adopted by the Board under this  
3           Act; or

4           (4) in violation of any order adopted by the Board  
5           under this Act.

6           Notwithstanding the above, no RCRA permit shall be required  
7           under this subsection or subsection (d) of Section 39 of this  
8           Act for any person engaged in agricultural activity who is  
9           disposing of a substance which has been identified as a  
10          hazardous waste, and which has been designated by Board  
11          regulations as being subject to this exception, if the  
12          substance was acquired for use by that person on his own  
13          property and the substance is disposed of on his own property  
14          in accordance with regulations or standards adopted by the  
15          Board.

16          (g) Conduct any hazardous waste-transportation operation:

17               (1) without registering with and obtaining a special  
18               waste hauling permit from the Agency in accordance with the  
19               regulations adopted by the Board under this Act; or

20               (2) in violation of any regulations or standards  
21               adopted by the Board under this Act.

22          (h) Conduct any hazardous waste-recycling or hazardous  
23          waste-reclamation or hazardous waste-reuse operation in  
24          violation of any regulations, standards or permit requirements  
25          adopted by the Board under this Act.

26          (i) Conduct any process or engage in any act which produces

1 hazardous waste in violation of any regulations or standards  
2 adopted by the Board under subsections (a) and (c) of Section  
3 22.4 of this Act.

4 (j) Conduct any special waste transportation operation in  
5 violation of any regulations, standards or permit requirements  
6 adopted by the Board under this Act. However, sludge from a  
7 water or sewage treatment plant owned and operated by a unit of  
8 local government which (1) is subject to a sludge management  
9 plan approved by the Agency or a permit granted by the Agency,  
10 and (2) has been tested and determined not to be a hazardous  
11 waste as required by applicable State and federal laws and  
12 regulations, may be transported in this State without a special  
13 waste hauling permit, and the preparation and carrying of a  
14 manifest shall not be required for such sludge under the rules  
15 of the Pollution Control Board. The unit of local government  
16 which operates the treatment plant producing such sludge shall  
17 file a semiannual report with the Agency identifying the volume  
18 of such sludge transported during the reporting period, the  
19 hauler of the sludge, and the disposal sites to which it was  
20 transported. This subsection (j) shall not apply to hazardous  
21 waste.

22 (k) Fail or refuse to pay any fee imposed under this Act.

23 (l) Locate a hazardous waste disposal site above an active  
24 or inactive shaft or tunneled mine or within 2 miles of an  
25 active fault in the earth's crust. In counties of population  
26 less than 225,000 no hazardous waste disposal site shall be



1 located (1) within 1 1/2 miles of the corporate limits as  
2 defined on June 30, 1978, of any municipality without the  
3 approval of the governing body of the municipality in an  
4 official action; or (2) within 1000 feet of an existing private  
5 well or the existing source of a public water supply measured  
6 from the boundary of the actual active permitted site and  
7 excluding existing private wells on the property of the permit  
8 applicant. The provisions of this subsection do not apply to  
9 publicly-owned sewage works or the disposal or utilization of  
10 sludge from publicly-owned sewage works.

11 (m) Transfer interest in any land which has been used as a  
12 hazardous waste disposal site without written notification to  
13 the Agency of the transfer and to the transferee of the  
14 conditions imposed by the Agency upon its use under subsection  
15 (g) of Section 39.

16 (n) Use any land which has been used as a hazardous waste  
17 disposal site except in compliance with conditions imposed by  
18 the Agency under subsection (g) of Section 39.

19 (o) Conduct a sanitary landfill operation which is required  
20 to have a permit under subsection (d) of this Section, in a  
21 manner which results in any of the following conditions:

22 (1) refuse in standing or flowing waters;

23 (2) leachate flows entering waters of the State;

24 (3) leachate flows exiting the landfill confines (as  
25 determined by the boundaries established for the landfill  
26 by a permit issued by the Agency);

1           (4) open burning of refuse in violation of Section 9 of  
2 this Act;

3           (5) uncovered refuse remaining from any previous  
4 operating day or at the conclusion of any operating day,  
5 unless authorized by permit;

6           (6) failure to provide final cover within time limits  
7 established by Board regulations;

8           (7) acceptance of wastes without necessary permits;

9           (8) scavenging as defined by Board regulations;

10          (9) deposition of refuse in any unpermitted portion of  
11 the landfill;

12          (10) acceptance of a special waste without a required  
13 manifest;

14          (11) failure to submit reports required by permits or  
15 Board regulations;

16          (12) failure to collect and contain litter from the  
17 site by the end of each operating day;

18          (13) failure to submit any cost estimate for the site  
19 or any performance bond or other security for the site as  
20 required by this Act or Board rules.

21          The prohibitions specified in this subsection (o) shall be  
22 enforceable by the Agency either by administrative citation  
23 under Section 31.1 of this Act or as otherwise provided by this  
24 Act. The specific prohibitions in this subsection do not limit  
25 the power of the Board to establish regulations or standards  
26 applicable to sanitary landfills.

1           (p) In violation of subdivision (a) of this Section, cause  
2 or allow the open dumping of any waste in a manner which  
3 results in any of the following occurrences at the dump site:

4           (1) litter;

5           (2) scavenging;

6           (3) open burning;

7           (4) deposition of waste in standing or flowing waters;

8           (5) proliferation of disease vectors;

9           (6) standing or flowing liquid discharge from the dump  
10 site;

11          (7) deposition of:

12           (i) general construction or demolition debris as  
13 defined in Section 3.160(a) of this Act; or

14           (ii) clean construction or demolition debris as  
15 defined in Section 3.160(b) of this Act.

16          The prohibitions specified in this subsection (p) shall be  
17 enforceable by the Agency either by administrative citation  
18 under Section 31.1 of this Act or as otherwise provided by this  
19 Act. The specific prohibitions in this subsection do not limit  
20 the power of the Board to establish regulations or standards  
21 applicable to open dumping.

22          (q) Conduct a landscape waste composting operation without  
23 an Agency permit, provided, however, that no permit shall be  
24 required for any person:

25           (1) conducting a landscape waste composting operation  
26 for landscape wastes generated by such person's own

1 activities which are stored, treated or disposed of within  
2 the site where such wastes are generated; or

3 (2) applying landscape waste or composted landscape  
4 waste at agronomic rates; or

5 (3) operating a landscape waste composting facility on  
6 a farm, if the facility meets all of the following  
7 criteria:

8 (A) the composting facility is operated by the  
9 farmer on property on which the composting material is  
10 utilized, and the composting facility constitutes no  
11 more than 2% of the property's total acreage, except  
12 that the Board may allow a higher percentage for  
13 individual sites where the owner or operator has  
14 demonstrated to the Board that the site's soil  
15 characteristics or crop needs require a higher rate;

16 (B) the property on which the composting facility  
17 is located, and any associated property on which the  
18 compost is used, is principally and diligently devoted  
19 to the production of agricultural crops and is not  
20 owned, leased or otherwise controlled by any waste  
21 hauler or generator of nonagricultural compost  
22 materials, and the operator of the composting facility  
23 is not an employee, partner, shareholder, or in any way  
24 connected with or controlled by any such waste hauler  
25 or generator;

26 (C) all compost generated by the composting

1 facility is applied at agronomic rates and used as  
2 mulch, fertilizer or soil conditioner on land actually  
3 farmed by the person operating the composting  
4 facility, and the finished compost is not stored at the  
5 composting site for a period longer than 18 months  
6 prior to its application as mulch, fertilizer, or soil  
7 conditioner;

8 (D) the owner or operator, by January 1, 1990 (or  
9 the January 1 following commencement of operation,  
10 whichever is later) and January 1 of each year  
11 thereafter, (i) registers the site with the Agency,  
12 (ii) reports to the Agency on the volume of composting  
13 material received and used at the site, (iii) certifies  
14 to the Agency that the site complies with the  
15 requirements set forth in subparagraphs (A), (B) and  
16 (C) of this paragraph (q) (3), and (iv) certifies to the  
17 Agency that all composting material was placed more  
18 than 200 feet from the nearest potable water supply  
19 well, was placed outside the boundary of the 10-year  
20 floodplain or on a part of the site that is  
21 floodproofed, was placed at least 1/4 mile from the  
22 nearest residence (other than a residence located on  
23 the same property as the facility) and there are not  
24 more than 10 occupied non-farm residences within 1/2  
25 mile of the boundaries of the site on the date of  
26 application, and was placed more than 5 feet above the

1 water table.

2 For the purposes of this subsection (q), "agronomic rates"  
3 means the application of not more than 20 tons per acre per  
4 year, except that the Board may allow a higher rate for  
5 individual sites where the owner or operator has demonstrated  
6 to the Board that the site's soil characteristics or crop needs  
7 require a higher rate.

8 (r) Cause or allow the storage or disposal of coal  
9 combustion waste unless:

10 (1) such waste is stored or disposed of at a site or  
11 facility for which a permit has been obtained or is not  
12 otherwise required under subsection (d) of this Section; or

13 (2) such waste is stored or disposed of as a part of  
14 the design and reclamation of a site or facility which is  
15 an abandoned mine site in accordance with the Abandoned  
16 Mined Lands and Water Reclamation Act; or

17 (3) such waste is stored or disposed of at a site or  
18 facility which is operating under NPDES and Subtitle D  
19 permits issued by the Agency pursuant to regulations  
20 adopted by the Board for mine-related water pollution and  
21 permits issued pursuant to the Federal Surface Mining  
22 Control and Reclamation Act of 1977 (P.L. 95-87) or the  
23 rules and regulations thereunder or any law or rule or  
24 regulation adopted by the State of Illinois pursuant  
25 thereto, and the owner or operator of the facility agrees  
26 to accept the waste; and either

1           (i) such waste is stored or disposed of in  
2 accordance with requirements applicable to refuse  
3 disposal under regulations adopted by the Board for  
4 mine-related water pollution and pursuant to NPDES and  
5 Subtitle D permits issued by the Agency under such  
6 regulations; or

7           (ii) the owner or operator of the facility  
8 demonstrates all of the following to the Agency, and  
9 the facility is operated in accordance with the  
10 demonstration as approved by the Agency: (1) the  
11 disposal area will be covered in a manner that will  
12 support continuous vegetation, (2) the facility will  
13 be adequately protected from wind and water erosion,  
14 (3) the pH will be maintained so as to prevent  
15 excessive leaching of metal ions, and (4) adequate  
16 containment or other measures will be provided to  
17 protect surface water and groundwater from  
18 contamination at levels prohibited by this Act, the  
19 Illinois Groundwater Protection Act, or regulations  
20 adopted pursuant thereto.

21           Notwithstanding any other provision of this Title, the  
22 disposal of coal combustion waste pursuant to item (2) or (3)  
23 of this subdivision (r) shall be exempt from the other  
24 provisions of this Title V, and notwithstanding the provisions  
25 of Title X of this Act, the Agency is authorized to grant  
26 experimental permits which include provision for the disposal

1 of wastes from the combustion of coal and other materials  
2 pursuant to items (2) and (3) of this subdivision (r).

3 (s) After April 1, 1989, offer for transportation,  
4 transport, deliver, receive or accept special waste for which a  
5 manifest is required, unless the manifest indicates that the  
6 fee required under Section 22.8 of this Act has been paid.

7 (t) Cause or allow a lateral expansion of a municipal solid  
8 waste landfill unit on or after October 9, 1993, without a  
9 permit modification, granted by the Agency, that authorizes the  
10 lateral expansion.

11 (u) Conduct any vegetable by-product treatment, storage,  
12 disposal or transportation operation in violation of any  
13 regulation, standards or permit requirements adopted by the  
14 Board under this Act. However, no permit shall be required  
15 under this Title V for the land application of vegetable  
16 by-products conducted pursuant to Agency permit issued under  
17 Title III of this Act to the generator of the vegetable  
18 by-products. In addition, vegetable by-products may be  
19 transported in this State without a special waste hauling  
20 permit, and without the preparation and carrying of a manifest.

21 (v) (Blank).

22 (w) Conduct any generation, transportation, or recycling  
23 of construction or demolition debris, clean or general, or  
24 uncontaminated soil generated during construction, remodeling,  
25 repair, and demolition of utilities, structures, and roads that  
26 is not commingled with any waste, without the maintenance of



1 documentation identifying the hauler, generator, place of  
2 origin of the debris or soil, the weight or volume of the  
3 debris or soil, and the location, owner, and operator of the  
4 facility where the debris or soil was transferred, disposed,  
5 recycled, or treated. This documentation must be maintained by  
6 the generator, transporter, or recycler for 3 years. This  
7 subsection (w) shall not apply to (1) a permitted pollution  
8 control facility that transfers or accepts construction or  
9 demolition debris, clean or general, or uncontaminated soil for  
10 final disposal, recycling, or treatment, (2) a public utility  
11 (as that term is defined in the Public Utilities Act) or a  
12 municipal utility, (3) the Illinois Department of  
13 Transportation, or (4) a municipality or a county highway  
14 department, with the exception of any municipality or county  
15 highway department located within a county having a population  
16 of over 3,000,000 inhabitants or located in a county that is  
17 contiguous to a county having a population of over 3,000,000  
18 inhabitants; but it shall apply to an entity that contracts  
19 with a public utility, a municipal utility, the Illinois  
20 Department of Transportation, or a municipality or a county  
21 highway department. The terms "generation" and "recycling" as  
22 used in this subsection do not apply to clean construction or  
23 demolition debris when (i) used as fill material below grade  
24 outside of a setback zone if covered by sufficient  
25 uncontaminated soil to support vegetation within 30 days of the  
26 completion of filling or if covered by a road or structure,

1 (ii) solely broken concrete without protruding metal bars is  
2 used for erosion control, or (iii) milled asphalt or crushed  
3 concrete is used as aggregate in construction of the shoulder  
4 of a roadway. The terms "generation" and "recycling", as used  
5 in this subsection, do not apply to uncontaminated soil that is  
6 not commingled with any waste when (i) used as fill material  
7 below grade or contoured to grade, or (ii) used at the site of  
8 generation.

9 (x) First accept for disposal, on or after the effective  
10 date of this amendatory Act of the 98th General Assembly, any  
11 waste containing PCBs or PCB items, the disposal of which is  
12 subject to prior approval by the U.S. Environmental Protection  
13 Agency in accordance with regulations promulgated to implement  
14 the Toxic Substances Control Act, (40 CFR 761.75) without  
15 having received the specific approval for the disposal of the  
16 waste containing PCBs or PCB items at a local siting review  
17 hearing conducted in accordance with the requirements of  
18 Section 39.2 of this Act.

19 (Source: P.A. 96-611, eff. 8-24-09; 97-220, eff. 7-28-11.)

20 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

21 Sec. 39.2. Local siting review.

22 (a) The county board of the county or the governing body of  
23 the municipality, as determined by paragraph (c) of Section 39  
24 of this Act, shall approve or disapprove the request for local  
25 siting approval for each pollution control facility which is

1 subject to such review. An applicant for local siting approval  
2 shall submit sufficient details describing the proposed  
3 facility to demonstrate compliance, and local siting approval  
4 shall be granted only if the proposed facility meets the  
5 following criteria:

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

8 (ii) the facility is so designed, located and proposed  
9 to be operated that the public health, safety and welfare  
10 will be protected;

11 (iii) the facility is located so as to minimize  
12 incompatibility with the character of the surrounding area  
13 and to minimize the effect on the value of the surrounding  
14 property;

15 (iv) (A) for a facility other than a sanitary landfill  
16 or waste disposal site, the facility is located outside the  
17 boundary of the 100 year flood plain or the site is  
18 flood-proofed; (B) for a facility that is a sanitary  
19 landfill or waste disposal site, the facility is located  
20 outside the boundary of the 100-year floodplain, or if the  
21 facility is a facility described in subsection (b)(3) of  
22 Section 22.19a, the site is flood-proofed;

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

26 (vi) the traffic patterns to or from the facility are

1 so designed as to minimize the impact on existing traffic  
2 flows;

3 (vii) if the facility will be treating, storing or  
4 disposing of hazardous waste, an emergency response plan  
5 exists for the facility which includes notification,  
6 containment and evacuation procedures to be used in case of  
7 an accidental release;

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

16 (ix) if the facility will be located within a regulated  
17 recharge area, any applicable requirements specified by  
18 the Board for such areas have been met; and -

19 (x) if the facility will be located over an aquifer  
20 that is known to extend into 14 counties, including one or  
21 more counties that contain portions of the Sangamon River,  
22 then the operation of the facility at that location must  
23 not pose an unreasonable risk of contamination to the  
24 aquifer. The county board or the governing body of the  
25 municipality conducting the local siting review shall  
26 determine whether the proposed location for the facility is

1 over such an aquifer by using only the most current  
2 geological maps maintained by the Illinois State  
3 Geological Survey. If the proposed facility is determined  
4 by the county board or governing body to be located over  
5 such an aquifer, the officials of the county or  
6 municipality in question shall notify the applicant of that  
7 fact and of the need to meet the additional local siting  
8 approval criteria set forth in this subsection (x) and to  
9 notify, in the manner provided in subsection (b), the chief  
10 corporate official of each municipality served by a  
11 community water supply that derives any of its potable  
12 water from the aquifer. In making its determination as to  
13 whether the operation of the facility at the proposed  
14 location poses an unreasonable risk of contamination to the  
15 aquifer, the county board or the governing body of the  
16 municipality shall consider the following:

17 (A) the extent to which there are available  
18 alternative ground or surface water sources for  
19 potable water that can be economically used by the  
20 community water supplies that obtain potable water  
21 from the aquifer in order to replace water from the  
22 aquifer if it becomes contaminated; and

23 (B) whether materials that may be disposed of at  
24 the facility include any hazardous waste or special  
25 waste and, if so:

26 (1) the length of time any toxic or hazardous

1           substances contained in such a waste, once  
2           disposed of at the facility, can be expected to  
3           persist in a chemical state that poses a threat to  
4           human health if ingested;

5           (2) whether the applicant has demonstrated  
6           that there is an economically feasible means of  
7           decontaminating the aquifer if it becomes  
8           contaminated by substances originating in such a  
9           waste; and

10           (3) whether the applicant has identified a  
11           secure source of funds that would be perpetually  
12           available and adequate to cover the costs of  
13           removing contamination originating from such a  
14           waste.

15           The county board or the governing body of the municipality  
16           may also consider as evidence the previous operating experience  
17           and past record of convictions or admissions of violations of  
18           the applicant (and any subsidiary or parent corporation) in the  
19           field of solid waste management when considering criteria (ii)  
20           and (v) under this Section.

21           If the facility is subject to the location restrictions in  
22           Section 22.14 of this Act, compliance with that Section shall  
23           be determined as of the date the application for siting  
24           approval is filed.

25           (b) No later than 14 days before the date on which the  
26           county board or governing body of the municipality receives a

1 request for site approval, the applicant shall cause written  
2 notice of such request to be served either in person or by  
3 registered mail, return receipt requested, on the owners of all  
4 property within the subject area not solely owned by the  
5 applicant, and on the owners of all property within 250 feet in  
6 each direction of the lot line of the subject property, said  
7 owners being such persons or entities which appear from the  
8 authentic tax records of the County in which such facility is  
9 to be located; provided, that the number of all feet occupied  
10 by all public roads, streets, alleys and other public ways  
11 shall be excluded in computing the 250 feet requirement;  
12 provided further, that in no event shall this requirement  
13 exceed 400 feet, including public streets, alleys and other  
14 public ways. In addition, if the facility will be located  
15 over an aquifer that is known to extend into 14 counties,  
16 including one or more counties that contain portions of the  
17 Sangamon River, then no later than 14 days before the date on  
18 which the county board or governing body of the municipality  
19 receives a request for site approval, the applicant shall also  
20 cause written notice of such request to be served either in  
21 person or by registered mail, return receipt requested, on the  
22 mayor, village board president, or other chief corporate  
23 official of each municipality that is served by a community  
24 water supply that, during the 12-month period preceding the  
25 submittal of the request for site approval, derived 50% or more  
26 of its potable water from the aquifer. The identity of each

1 municipality meeting those criteria shall be determined from  
2 current water inventory records maintained by the Illinois  
3 Water Inventory Program of the Illinois State Water Surveys  
4 Center for Groundwater Science.

5 Such written notice shall also be served upon members of  
6 the General Assembly from the legislative district in which the  
7 proposed facility is located and shall be published in a  
8 newspaper of general circulation published in the county in  
9 which the site is located.

10 Such notice shall state the name and address of the  
11 applicant, the location of the proposed site, the nature and  
12 size of the development, the nature of the activity proposed,  
13 the probable life of the proposed activity, the date when the  
14 request for site approval will be submitted, and a description  
15 of the right of persons to comment on such request as hereafter  
16 provided.

17 (c) An applicant shall file a copy of its request with the  
18 county board of the county or the governing body of the  
19 municipality in which the proposed site is located. The request  
20 shall include (i) the substance of the applicant's proposal and  
21 (ii) all documents, if any, submitted as of that date to the  
22 Agency pertaining to the proposed facility, except trade  
23 secrets as determined under Section 7.1 of this Act. All such  
24 documents or other materials on file with the county board or  
25 governing body of the municipality shall be made available for  
26 public inspection at the office of the county board or the



1 governing body of the municipality and may be copied upon  
2 payment of the actual cost of reproduction.

3 Any person may file written comment with the county board  
4 or governing body of the municipality concerning the  
5 appropriateness of the proposed site for its intended purpose.  
6 The county board or governing body of the municipality shall  
7 consider any comment received or postmarked not later than 30  
8 days after the date of the last public hearing.

9 (d) At least one public hearing is to be held by the county  
10 board or governing body of the municipality no sooner than 90  
11 days but no later than 120 days after the date on which it  
12 received the request for site approval. No later than 14 days  
13 prior to such hearing, notice shall be published in a newspaper  
14 of general circulation published in the county of the proposed  
15 site, and delivered by certified mail to the following:

16 (i) all members of the General Assembly from the  
17 district in which the proposed site is located,

18 (ii) to the governing authority of every municipality  
19 contiguous to the proposed site or contiguous to the  
20 municipality in which the proposed site is to be located,

21 (iii) to the county board of the county where the  
22 proposed site is to be located, if the proposed site is  
23 located within the boundaries of a municipality,

24 (iv) if the facility is located over an aquifer that is  
25 known to extend into 14 counties, including one or more  
26 counties that contain portions of the Sangamon River, then

1       to the governing authority of each municipality that is  
2       entitled to notice as provided in subsection (b) of this  
3       Section; and

4           (v) to the Agency.

5       Members or representatives of the governing authority of  
6       any a municipality that is contiguous to the proposed site,  
7       that is or contiguous to the municipality in which the proposed  
8       site is to be located, or that is entitled to notice as  
9       provided in subsections (b) and (d), by virtue of being served  
10       by community water supplies deriving potable water from an  
11       aquifer that is known to extend into 14 counties, including one  
12       or more counties that contain portions of the Sangamon River,  
13       may appear at and participate in the public hearings held  
14       pursuant to this Section. In addition and, if the proposed site  
15       is located in a municipality, members or representatives of the  
16       county board of a county in which the proposed site is to be  
17       located may appear at and participate in public hearings held  
18       pursuant to this Section. The public hearing shall develop a  
19       record sufficient to form the basis of appeal of the decision  
20       in accordance with Section 40.1 of this Act. The fact that a  
21       member of the county board or governing body of the  
22       municipality has publicly expressed an opinion on an issue  
23       related to a site review proceeding shall not preclude the  
24       member from taking part in the proceeding and voting on the  
25       issue.

26       (e) Decisions of the county board or governing body of the

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

15 At any time prior to completion by the applicant of the  
16 presentation of the applicant's factual evidence and an  
17 opportunity for cross-questioning by the county board or  
18 governing body of the municipality and any participants, the  
19 applicant may file not more than one amended application upon  
20 payment of additional fees pursuant to subsection (k); in which  
21 case the time limitation for final action set forth in this  
22 subsection (e) shall be extended for an additional period of 90  
23 days.

24 If, prior to making a final local siting decision, a county  
25 board or governing body of a municipality has negotiated and  
26 entered into a host agreement with the local siting applicant,

1 the terms and conditions of the host agreement, whether written  
2 or oral, shall be disclosed and made a part of the hearing  
3 record for that local siting proceeding. In the case of an oral  
4 agreement, the disclosure shall be made in the form of a  
5 written summary jointly prepared and submitted by the county  
6 board or governing body of the municipality and the siting  
7 applicant and shall describe the terms and conditions of the  
8 oral agreement.

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

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

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

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

1 made before January 1, 1990.

2 (g) The siting approval procedures, criteria and appeal  
3 procedures provided for in this Act for new pollution control  
4 facilities shall be the exclusive siting procedures and rules  
5 and appeal procedures for facilities subject to such  
6 procedures. Local zoning or other local land use requirements  
7 shall not be applicable to such siting decisions.

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

11 (i) (Blank.)

12 The Board shall adopt regulations establishing the  
13 geologic and hydrologic siting criteria necessary to protect  
14 usable groundwater resources which are to be followed by the  
15 Agency in its review of permit applications for new pollution  
16 control facilities. Such regulations, insofar as they apply to  
17 new pollution control facilities authorized to store, treat or  
18 dispose of any hazardous waste, shall be at least as stringent  
19 as the requirements of the Resource Conservation and Recovery  
20 Act and any State or federal regulations adopted pursuant  
21 thereto.

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

26 (k) A county board or governing body of a municipality may

1 charge applicants for siting review under this Section a  
2 reasonable fee to cover the reasonable and necessary costs  
3 incurred by such county or municipality in the siting review  
4 process.

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

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

14 (n) In any review proceeding of a decision of the county  
15 board or governing body of a municipality made pursuant to the  
16 local siting review process, the petitioner in the review  
17 proceeding shall pay to the county or municipality the cost of  
18 preparing and certifying the record of proceedings. Should the  
19 petitioner in the review proceeding fail to make payment, the  
20 provisions of Section 3-109 of the Code of Civil Procedure  
21 shall apply.

22 In the event the petitioner is a citizens' group that  
23 participated in the siting proceeding and is so located as to  
24 be affected by the proposed facility, such petitioner shall be  
25 exempt from paying the costs of preparing and certifying the  
26 record.

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

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