



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0316

Introduced 1/19/2007, by Rep. Thomas Holbrook - Michael Tryon
- James H. Meyer

SYNOPSIS AS INTRODUCED:

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 115/Act rep.	

Amends the Environmental Protection Act. Provides that for (i) permits for the development or construction of new pollution control facilities and (ii) permits for local siting approval of pollution control facilities, the appropriate county board or governing body of the municipality for the facility shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed. Provides that facilities subject to provisions of the Act relating to garbage transfer stations must be in compliance with the location requirements of those provisions as of the date the application for siting approval is filed in order to obtain local siting approval for the pollution control facility. Repeals the Illinois Pollution Prevention Act. Provides that the changes made by this amendatory Act apply only to siting applications filed on or after the effective date of this amendatory Act. Effective immediately.

LRB095 03761 CMK 23790 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 changing Sections 39 and 39.2 as follows:

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

7 Sec. 39. Issuance of permits; procedures.

8 (a) When the Board has by regulation required a permit for
9 the construction, installation, or operation of any type of
10 facility, equipment, vehicle, vessel, or aircraft, the
11 applicant shall apply to the Agency for such permit and it
12 shall be the duty of the Agency to issue such a permit upon
13 proof by the applicant that the facility, equipment, vehicle,
14 vessel, or aircraft will not cause a violation of this Act or
15 of regulations hereunder. The Agency shall adopt such
16 procedures as are necessary to carry out its duties under this
17 Section. In making its determinations on permit applications
18 under this Section the Agency may consider prior adjudications
19 of noncompliance with this Act by the applicant that involved a
20 release of a contaminant into the environment. In granting
21 permits, the Agency may impose reasonable conditions
22 specifically related to the applicant's past compliance
23 history with this Act as necessary to correct, detect, or

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

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

14 (ii) the provision of the regulations, promulgated
15 under this Act, which may be violated if the permit were
16 granted;

17 (iii) the specific type of information, if any, which
18 the Agency deems the applicant did not provide the Agency;
19 and

20 (iv) a statement of specific reasons why the Act and
21 the regulations might not be met if the permit were
22 granted.

23 If there is no final action by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued; except that this time period shall
26 be extended to 180 days when (1) notice and opportunity for

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

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

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

1 consistent with this provision by January 1, 1994.

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

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

19 All NPDES permits shall contain those terms and conditions,
20 including but not limited to schedules of compliance, which may
21 be required to accomplish the purposes and provisions of this
22 Act.

23 The Agency may issue general NPDES permits for discharges
24 from categories of point sources which are subject to the same
25 permit limitations and conditions. Such general permits may be
26 issued without individual applications and shall conform to

1 regulations promulgated under Section 402 of the Federal Water
2 Pollution Control Act, as now or hereafter amended.

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

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

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

21 (c) Except for those facilities owned or operated by
22 sanitary districts organized under the Metropolitan Water
23 Reclamation District Act, no permit for the development or
24 construction of a new pollution control facility may be granted
25 by the Agency unless the applicant submits proof to the Agency
26 that the location of the facility has been approved by the

1 County Board of the county if in an unincorporated area, or the
2 governing body of the municipality when in an incorporated
3 area, in which the facility is to be located in accordance with
4 Section 39.2 of this Act. For purposes of this subsection (c),
5 and for purposes of Section 39.2 of this Act, the appropriate
6 county board or governing body of the municipality shall be the
7 county board of the county or the governing body of the
8 municipality in which the facility is to be located as of the
9 date when the application for siting approval is filed.

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

26 Beginning August 20, 1993, if the pollution control

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

17 In the case of a pollution control facility for which a
18 development permit was issued before November 12, 1981, if an
19 operating permit has not been issued by the Agency prior to
20 August 31, 1989 for any portion of the facility, then the
21 Agency may not issue or renew any development permit nor issue
22 an original operating permit for any portion of such facility
23 unless the applicant has submitted proof to the Agency that the
24 location of the facility has been approved by the appropriate
25 county board or municipal governing body pursuant to Section
26 39.2 of this Act.

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

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

23 Before beginning construction on any new sewage treatment
24 plant or sludge drying site to be owned or operated by a
25 sanitary district organized under the Metropolitan Water
26 Reclamation District Act for which a new permit (rather than

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

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

13 (1) the municipal waste transfer station was in
14 existence on or before January 1, 1979 and was in
15 continuous operation from January 1, 1979 to January 1,
16 1993;

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

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

26 (4) the site has local zoning approval.

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

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

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

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

1 pursuant thereto.

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

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

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

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

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

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

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

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

23 (2) The Agency shall, after conferring with the
24 applicant, give written notice to the applicant of its
25 proposed decision on the application including the terms
26 and conditions of the permit to be issued and the facts,

1 conduct or other basis upon which the Agency will rely to
2 support its proposed action.

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

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

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

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

20 (i) Before issuing any RCRA permit, any permit for a waste
21 storage site, sanitary landfill, waste disposal site, waste
22 transfer station, waste treatment facility, waste incinerator,
23 or any waste-transportation operation, or any permit or interim
24 authorization for a clean construction or demolition debris
25 fill operation, the Agency shall conduct an evaluation of the
26 prospective owner's or operator's prior experience in waste

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

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

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

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

24 (i-5) Before issuing any permit or approving any interim
25 authorization for a clean construction or demolition debris
26 fill operation in which any ownership interest is transferred

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

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

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

1 beyond the permittee's control, such two-year period shall be
2 deemed to begin on the date upon which such review process or
3 litigation is concluded.

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

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

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

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

26 (3) the specific information, if any, the Agency deems

1 the applicant did not provide in its application to the
2 Agency; and

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

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

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

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

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

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

1 located on the same property as the facility);

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

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

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

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

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

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

5 (o) (Blank.)

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

24 When a permit applicant submits information to the Agency
25 to supplement a permit application being reviewed by the
26 Agency, the applicant shall not be required to reissue the

1 notice under this subsection.

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

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

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

23 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

24 Sec. 39.2. Local siting review.

25 (a) The county board of the county or the governing body of

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

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

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

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

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

26 (v) the plan of operations for the facility is designed

1 to minimize the danger to the surrounding area from fire,
2 spills, or other operational accidents;

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

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

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

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

22 The county board or the governing body of the municipality
23 may also consider as evidence the previous operating experience
24 and past record of convictions or admissions of violations of
25 the applicant (and any subsidiary or parent corporation) in the
26 field of solid waste management when considering criteria (ii)

1 and (v) under this Section.

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

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

22 Such written notice shall also be served upon members of
23 the General Assembly from the legislative district in which the
24 proposed facility is located and shall be published in a
25 newspaper of general circulation published in the county in
26 which the site is located.

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

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

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

26 (d) At least one public hearing is to be held by the county

1 board or governing body of the municipality no sooner than 90
2 days but no later than 120 days after the date on which it
3 received the request for site approval. No later than 14 days
4 prior to such hearing, notice shall be published in a newspaper
5 of general circulation published in the county of the proposed
6 site, and delivered by certified mail to all members of the
7 General Assembly from the district in which the proposed site
8 is located, to the governing authority of every municipality
9 contiguous to the proposed site or contiguous to the
10 municipality in which the proposed site is to be located, to
11 the county board of the county where the proposed site is to be
12 located, if the proposed site is located within the boundaries
13 of a municipality, and to the Agency. Members or
14 representatives of the governing authority of a municipality
15 contiguous to the proposed site or contiguous to the
16 municipality in which the proposed site is to be located and,
17 if the proposed site is located in a municipality, members or
18 representatives of the county board of a county in which the
19 proposed site is to be located may appear at and participate in
20 public hearings held pursuant to this Section. The public
21 hearing shall develop a record sufficient to form the basis of
22 appeal of the decision in accordance with Section 40.1 of this
23 Act. The fact that a member of the county board or governing
24 body of the municipality has publicly expressed an opinion on
25 an issue related to a site review proceeding shall not preclude
26 the member from taking part in the proceeding and voting on the

1 issue.

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

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

26 If, prior to making a final local siting decision, a county

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

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

1 owner or operator and the appropriate county board or governing
2 body.

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

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

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

1 Section, as the proposal that received the original siting
2 approval, and application for the second development permit is
3 made before January 1, 1990.

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

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

13 (i) (Blank.)

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

24 (j) Any new pollution control facility which has never
25 obtained local siting approval under the provisions of this
26 Section shall be required to obtain such approval after a final

1 decision on an appeal of a permit denial.

2 (k) A county board or governing body of a municipality may
3 charge applicants for siting review under this Section a
4 reasonable fee to cover the reasonable and necessary costs
5 incurred by such county or municipality in the siting review
6 process.

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

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

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

24 In the event the petitioner is a citizens' group that
25 participated in the siting proceeding and is so located as to
26 be affected by the proposed facility, such petitioner shall be

1 exempt from paying the costs of preparing and certifying the
2 record.

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

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

10 (415 ILCS 115/Act rep.)

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

13 Section 97. Applicability. The changes made by Section 5 of
14 this amendatory Act of the 95th General Assembly apply only to
15 siting applications filed on or after the effective date of
16 this amendatory Act.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.