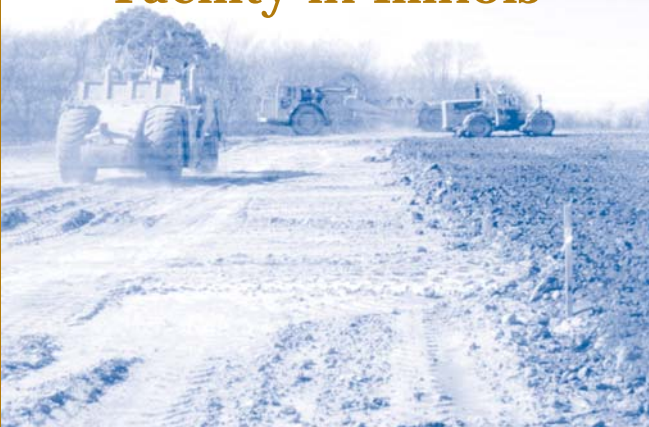




Siting a Pollution Control Facility in Illinois



Illinois law assigns the responsibility of approving the location, or siting, of municipal waste and hazardous waste management to local government. The law also spells out the process that local officials must follow to approve or deny local siting approval.

Where Can I Find a Copy of the Siting Law?

Information on the local siting process in Illinois is found in the Illinois Environmental Protection Act (Act), which is located in the Illinois Compiled Statutes (ILCS) at 415 ILCS 5/1 et seq, in Sections 3.330, 39, 39.2, and 40.1. The provisions that describe the local siting process are in Section 39.2 of the Act. These documents can be found on the Illinois Pollution Control Board website www.ipcb.state.il.us.



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Illinois' Landfill Laws

The Illinois Environmental Protection Act (Act) of 1970 created the Illinois Pollution Control Board (Board) to set environmental standards for pollution control facilities and the state, and to judge violations of those standards. The Act also created the Illinois Environmental Protection Agency (Illinois EPA) to enforce the Board's standards for these facilities through inspections and monitoring programs and to issue permits for various kinds of facilities and equipment covered by the regulations.

In 1986, the Act was amended to allow counties that have signed a delegation agreement to share in the responsibility of inspection and enforcement of nonhazardous waste management sites such as landfills, transfer stations, compost sites and open dumps.

A provision is included to give local government the authority and responsibility to approve the location of any pollution control facility within their jurisdiction. It is only during this siting approval that "quality of life" issues relating to the landfill, or other pollution control facility, can be considered. Documentation of this approval is an integral part of any permit application submitted to the Illinois EPA for review.

Defining a Pollution Control Facility

A pollution control facility is defined as any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility or waste incinerator.

There are 12 specific types of sites that are not considered pollution control facilities according to Sec. 3.330 of the Act. These include industrial facilities disposing of wastes generated and transferred between properties owned by the company; facilities used for collection, storage or processing of waste tires; landscape waste compost sites, a property used for the treatment of petroleum-contaminated material by application onto or incorporation into the soil. However, they may be subject to local zoning requirements.

Filing a Proposal for Local Siting Approval

A developer who wants to build a new landfill or other pollution control facility must request approval of the selected location from the local siting authority. This local siting authority would either be the county board, if the site is in an unincorporated area, or the governing body of a municipality, if the site is within its boundaries. This approval must be obtained prior to submitting an application for a permit from the Illinois EPA.

Illinois law outlines the rights and responsibilities of the various interested parties in the siting process.

- The applicant must comply with notification requirements.
- The applicant must present a proposal that complies with the siting law.
- The public must be allowed an opportunity to comment on the proposal.
- The local officials must examine the application and evaluate public comments to determine whether the site meets the requirements of the siting law.
- Local officials are required to make public, orally or in writing, any host agreement between the local siting authority and the siting applicant, prior to the siting decision.
- The Illinois EPA will not review a permit application without documentation that the county or municipal government has approved the location of the facility.

Many counties and municipalities also have local ordinances on the siting of pollution control facilities. These ordinances may impose additional requirements on siting applicants beyond those required by state law.

When is Local Siting Approval Required?

The developer of a new landfill or other pollution control facility must submit information to the local siting authority about the site where the facility is proposed to be located and request local siting approval. The municipal or county officials have 180 days to reach their decision. If a decision is not made by the 180-day deadline, the applicant may consider the siting request approved.

The local siting approval process applies to a new pollution control facility, which the law defines as:

- A pollution control facility initially permitted for development or construction after July 1, 1981; or
- The area of expansion beyond the boundaries of a currently permitted pollution control facility (horizontal, vertical, increased volume); or
- A permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

How is the Local Siting Decision Made?

The law specifies that the site location suitability be evaluated only in accordance with the following criteria:

- The facility is necessary to accommodate the waste needs of the area it is intended to serve;
- The facility is designed, located and proposed to be operated so that the public health, safety and welfare will be protected;
- The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
- The facility is located outside the boundary of the 100-year flood plain;
- The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents;

- The traffic patterns to and from the facility are designed to minimize the impact on existing traffic flow;
- If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan for the facility will be developed to include notification, containment and evacuation procedures to be used in case of an accidental release.
- If the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met. This criterion should be read together with groundwater protection provisions of the Environmental Protection Act;
- If the facility is to be located in a county where a solid waste management plan has been adopted, the facility must be consistent with that plan.

The local siting authority may also consider the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management as part of the procedure.

Local zoning and local land use requirements may not be applied to siting decisions for pollution control facilities, except when located within Chicago city limits.

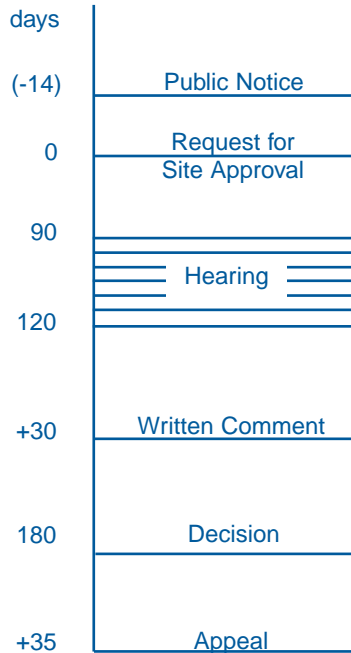
The local siting authority has 180 days to take action on the local siting request. Under certain conditions, an applicant can file one amendment to the application. The time limit for final action by the county board or city council is then extended by 90 days from the original deadline. A statement justifying the siting decision must be made in writing by the local siting authority.

If the proposed facility meets these nine criteria, local siting will be approved. The approval expires at the end of two years, or three years for a municipal waste landfill, unless the applicant applies to the Illinois EPA for a permit to develop the site during this period. If the local decision is appealed, the period begins when the appeal process is concluded. A denial of siting approval must be based on evidence that the site does not qualify under

one or more of the nine criteria. If the applicant has been denied siting approval by the county board or municipal government, two years must pass before a substantially equivalent proposal can be reconsidered.

Public Involvement in the Siting Process

Illinois law intends that citizens be fully informed about the proposal and to have an opportunity to comment. At least 14 days before requesting approval for the site, the permit applicant (usually the developer) must notify owners of property within 250 feet in all directions of the boundary of the site. They must also notify members of the General Assembly from the legislative district in which the site is located. The applicant must also publish a notice in a newspaper with general circulation, in the county where the site is to be located. To insure that interested citizens understand the intentions of the applicant, the law requires that the notice contain the following information:



the law requires that the notice contain the following information:

- The name and address of the applicant;
- The location of the proposed site;
- The nature and size of the development;
- The probable life of the proposed site;
- The date when the request for site approval will be submitted to the county board/city council; and
- A description of the right of persons to comment on the request for site approval.

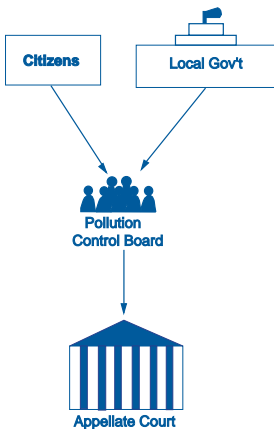
A copy of the applicant's request for siting approval, accompanied by supporting information, must be on file at the county board or city council office for review by interested persons.

Local officials must conduct at least one public hearing, between 90 and 120 days after receiving the application. A notice of public hearing must be published in a newspaper located in the county of the proposed site, sent to all members of the General Assembly from that district and to the Illinois EPA Bureau of Land. The hearing enables the officials to obtain information from everyone interested in the application. The proceedings are to be transcribed by a court reporter so that they are available for public inspection, copying and review.

The public may comment on the application in writing until 30 days after the last public hearing. They may also participate in the public hearing.

Can the Local Siting Decision be Appealed?

Yes, the local siting decision can be appealed. If the local government grants siting approval, a citizen opposed to the development may appeal the decision to the Board, as long as he or she has established interest in the case by having participated in the public hearing. Citizens must also show that in some way they are affected by the proposed development. Only evidence presented in the original hearing may be considered.



Also, if the local government denies siting approval, the developer may appeal the decision to the Board.

In either case, a petition for a hearing must be filed with the Board within 35 days of the announcement of the local siting authority's decision. The Board has 120 days to review the challenges to siting decisions. The Board must follow formal procedures set up in the law and regulations.

The person challenging the local government decision, known as the petitioner, has the burden of producing evidence that the decision was wrong. Without such evidence the Board will uphold the local government's decision. A hearing will be held, but the Board will not accept new evidence on the question of whether the proposed site meets the criteria for siting. Rather, the Board will be looking only at the information the local officials had before them, including the transcribed record of the public hearing and the " fundamental fairness" of the procedures they followed, to determine if the local government reached the correct decision.

Decisions made by the Board may be appealed to the Appellate Court. The Appellate Court also only reviews the process; so all evidence must have been included in the siting hearing. The Board or the Appellate Court may determine that certain evidence was disregarded or was not true, but it must have been presented in the original hearing.

For More Information

This brochure has been prepared for general information on the pollution control facility siting process in Illinois. If you need more information, please refer to the applicable statute available at www.ipcb.state.il.us.

Questions about permits should be addressed to the specific division of the Illinois EPA responsible for that permit.

For more detail on Illinois' pollution control facilities, their capacities and other solid waste management issues, you may request a copy of the Nonhazardous Solid Waste Management and Landfill Capacity in Illinois annual report, by calling 217-785-8604, or refer to our web site: www.epa.state.il.us.

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