

PROCEDURE FOR NEW POLLUTION CONTROL FACILITIES; SITE APPROVAL REQUESTS

§ 50.40 DEFINITIONS.

(A) For the purpose of this subchapter, the following definitions shall apply.

ACT. The Illinois Environmental Protection Act, as amended (415 ILCS 5/1 et seq.).

AGENCY. The Illinois Environmental Protection Agency.

APPLICANT. Any person, firm, or partnership, association, corporation, company, local government, joint action agency, or organization of any kind who files a request for site approval pursuant to this subchapter.

APPLICATION. Request or application for site location approval of a pollution control facility submitted to the Lake County Clerk pursuant to this ordinance.

COUNTY. Lake County, Illinois.

COUNTY BOARD. The Lake County Board.

COUNTY CLERK. The Lake County Clerk.

HAZARDOUS WASTE DISPOSAL SITE. A site at which hazardous waste is disposed.

HEARING OFFICER. The person appointed by the Lake County State's Attorney to conduct a public hearing and make findings of fact, conclusions of law, and recommendations to the County Board as provided for in this subchapter.

OPERATOR. Any person, firm or partnership, association, corporation, company, limited liability company, or organization of any kind engaging in the activity of operating a Pollution Control Facility in the unincorporated area of the County.

POLLUTION CONTROL BOARD. The Illinois Pollution Control Board.

POLLUTION CONTROL FACILITY. Any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator that accepts waste from or that serves an area that exceeds or extends over the boundaries of any local general purpose unit of government. For purposes of this subchapter, a "local general purpose unit of government" is Lake County. A POLLUTION CONTROL FACILITY includes a new pollution control facility as defined by the Act.

(B) In addition, all other words used in this subchapter and defined in the Act shall have the same definitions and meanings as found in 415 ILCS 5/1 *et seq.*

§ 50.41 COUNTY APPROVAL OF POLLUTION CONTROL FACILITY.

No site location approval for the development or construction of a new Pollution Control Facility within the unincorporated area of the County may be granted by the County Board unless an application is filed for approval of such site and is submitted for consideration to the County Board in accordance with this Subchapter.

§ 50.42 PRE-FILING NOTICE REQUIREMENT.

No later than fourteen days prior to submittal of an application for a site location approval, applicant shall cause notice of intent to submit such application to all owners of property located within 250 feet in each direction of the lot line of the subject premises. Notification must be in conformance with the provisions of Section 39.2 of the Act.

Notice shall also be sent to all members of the General Assembly from the legislative district in which the site is located and published in a newspaper of general circulation published in Lake County.

Notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on such request or participate in the hearing as set forth in the Act and this Subchapter.

Proof of compliance with this notification requirement must be submitted with the application.

§ 50.43 APPLICATION.

- (A) An application for site location approval of a new pollution control facility shall be made in writing and filed with the County Clerk. The application shall contain the information set forth in this Section and shall be divided into nine subsections corresponding to the nine criteria set forth in Section 39.2(b) of the Act. A tenth section shall be included that provides additional documentation to be submitted.
- (B) Specific Information by Criteria:
 - (1) Subsection One. The application shall contain sufficient detail to demonstrate that the proposed facility is necessary to accommodate the waste needs of the area that it is intended to serve. Subsection One shall include but is not limited to the following:
 - (a) A map showing the extent of the service area the facility is intended to serve and a statement of that area's waste management needs.
 - (b) A study performed by an experienced solid waste planner establishing that the proposed facility is necessary to accommodate the needs of the service area. The subsection shall include the qualifications of the

individual or company that completed the study. Minimum requirements of the study are:

- (i) A calculation of the current amount of waste generated and disposed within the service area and an estimate of the amount of waste to be generated and disposed within the service area for the next 20 years.
 - (ii) A calculation of the current amount of waste exported out of and imported into the service area.
 - (iii) A calculation of the capacity of the proposed facility, the estimated daily volume of waste to be received and the source of said waste, and the estimated duration of operation at the proposed facility.
 - (iv) If applicable, the estimated daily volume of waste to be transported from the facility and the anticipated destination(s) and percentage of waste to each destination.
 - (v) A description of the type(s) of waste to be received.
 - (vi) A calculation of the permitted landfill disposal capacity and permitted transfer station capacity available within the service area.
 - (vii) An economic analysis of the benefits in the service area if the facility is sited.
- (c) A description of the proposed facility, its operation and the expected longevity thereof.
 - (d) A list of the existing and permitted-for-development Pollution Control Facilities and other Solid Waste Management facilities located within or serving or reasonably capable of serving the area proposed to be served and, with respect to each such facility, to the extent such is reasonably available, the following information shall be provided: location, size, owner and/or operator, type of facility, remaining capacity, annual permitted or design capacity for waste/material throughput, probable life of the proposed facility, publicly announced or filed facility expansions, and generic types of wastes received and authorized to be received.
 - (e) A description of the expected types, amounts, and methods of disposal, treatment or storage of all wastes proposed to be received at the facility and the expected generating sources and geographical locations of these wastes in general.
- (2) Subsection Two. The application shall contain sufficient detail to demonstrate that the proposed facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The study shall be performed under the direction of a Professional Engineer registered in the State of Illinois. The subsection shall include the qualifications of the individual and company that completed the study. Subsection Two shall include but is not limited to the following:

- (a) The subsection shall contain all applicable information required by the Act and the Pollution Control Board regulations for development permit applications.
- (b) The subsection shall contain an aerial photograph depicting a 1500 foot radius from the proposed facility. The subsection shall also include a site plan showing details of the proposed facility including but not limited to:
 - (i) all existing and publicly disclosed or recorded wells;
 - (ii) fences, buildings and other structures;
 - (iii) roads, entrances and driveways; and
 - (iv) flow of traffic and waste/materials through the site and facility.
- (c) Elevation views of the proposed facility from the north, south, east and west.
- (d) All documents, if any, submitted, as of the filing date, to the Illinois Environmental Protection Agency pertaining to the proposed facility, except trade secrets determined to be such pursuant to the Act and Illinois Pollution Control Board regulations.
- (e) The subsection shall include a demonstration and determination that all applicable location standards in the Act and the Pollution Control Board regulations have been met.
- (f) A statement of the plan of operation for the proposed facility, including but not limited to the following:
 - (i) methods of waste and material transferring at the facility and ultimate management of all waste and/or materials accepted at the facility;
 - (ii) days and hours of operation and daily cleanup procedures to be used at the site or facility;
 - (iii) personnel including number and duties of employees - including person(s) directly responsible for operations of the site or facility;
 - (iv) litter, vector, dust and odor control;
 - (v) stormwater calculations to demonstrate that all County Ordinances and standards are met by the site plan; surface drainage and erosion control;
 - (vi) fire plan per applicable fire protection district requirements. Also a site plan which shall indicate but not be limited to, site access, site utilities, detention basin with normal and high water levels, road improvements, site geometry and building location;
 - (vii) corrective actions for spills and other operational accidents;
 - (viii) if applicable, the stages of development or use;
 - (ix) an end use or closure plan - a post-closure care plan is required if waste is intended to remain at the site after closure is completed;
 - (x) equipment utilized - each item's function, physical description, capacity and number of units used in the operations;

- (xi) description of type of waste to be received, i.e., municipal solid waste and commercial waste, landscape waste, construction and demolition debris, etc. Description of prohibited wastes and wastes to be received which will require special handling (asbestos, landscape waste, etc.);
- (xii) methods used to screen each load of waste coming into the site to assure only municipal solid waste is received, or, if other waste types are to be received, describe segregation procedures;
- (xiii) methods used to transfer and dispose of generated waste such as wash down liquids, residues, run off, etc. Include any documentary evidence of the site or third party acting as the repository of the wastes, such as permits issued by the Illinois EPA Bureau of Water or waste stream authorizations;
- (xiv) alarms and firefighting equipment as well as a contingency or action plan to be implemented in the event of an emergency. All applications must contain a description of, and a plan sheet showing:
 1. any primary or secondary containment control system, i.e., embankments, dikes or internal drainage systems,
 2. capacity of the containment system relative to the number and volume of containers or maximum quantity of waste in the building;
- (xv) description of the site or facility inspection procedures and provide an inspection schedule. Describe how leaking containers will be managed, and procedures for managing and removing unauthorized wastes;
- (xvi) description of procedures for managing surface water (run-on/run-off) during construction and operation;
- (xvii) Recycling:
 1. Describe the type(s) of recycling and/or salvaging at the facility. Indicate storage areas for recyclables on plans. Describe minimum frequency of removal for each recyclable material.
 2. Storage Information for Recyclable Materials (may be provided in narrative form):
 - a. Physical Location - Surface area must be described. List materials to be stored and cross reference the type of storage with location on map of developed site. For any tanks, indicate if located above grade or below grade.
 - b. Refuse Volume - Include maximum daily volume and annual projected volume for each recyclable material.

- c. Number of Containers - Provide the maximum number of containers in the storage area as well as any proposed stacking scheme.
- d. Duration of Storage - Turnover rate or frequency of removal.
- e. List planned markets - also discuss contingency to ensure that materials are not accumulated speculatively.
- f. Design - Describe how materials will be sorted. Include the method to assure salvaged materials are free of waste and will not cause environmental problems during storage.

(3) Subsection Three. The application shall contain sufficient detail to demonstrate that the proposed 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. Section Three shall include but is not limited to the following:

- (a) A Land Assessment Study shall be performed by a qualified person who will consider the proposed facility and its compatibility with the surrounding land uses. The subsection shall include the qualifications of the individual and company that completed the study. The study shall include, but not be limited to:
 - (i) An exhibit showing the land uses and zoning designations within a one-mile radius of the proposed site and all airports within five miles of the site.
 - (ii) Typical photographic views of the proposed site from selected residences and commercial/industrial establishments within one mile of the boundary of the proposed facility which fairly depict the site from each direction.
 - (iii) A description of the landscape mitigation plan to be implemented at the proposed facility to minimize the incompatibility with the surrounding area during the operating life of the facility. The landscape mitigation plan shall include the final design grades of the facility.
 - (iv) A description of the proposed use of the site after the pollution control facility is closed.
 - (v) A description of the history of the development of the site and the surrounding area and current trends of development in the surrounding area and the proposed facility's impact on those trends.
- (b) A Property Value Impact Study shall be performed by a certified real estate appraiser to determine the effects on property values in the surrounding areas. The subsection shall include the qualifications of

the individual and company that completed the study. The study shall include, but not be limited to, a description and analysis of factors relating to the proposed site that may impact property values in the area along with a description of the design features and operating procedures that will be used to minimize the impact on property values.

- (4) Subsection Four. The application shall contain sufficient detail to demonstrate that (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or that the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), or that the site is flood-proofed. Subsection Four shall include but is not limited to the following:
- (a) A map prepared by a professional engineer registered in the State of Illinois showing the proximity of any 100-year flood plain to the proposed site.
 - (b) For a facility other than a landfill or waste disposal site or a facility described in subsection (b) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), if the site is located in the 100 year flood plain, design drawings and calculations prepared by a professional engineer registered in the State of Illinois shall be required as evidence that the site is flood-proofed.
 - (c) A detailed topographic survey of the subject site and the surrounding area within 500 feet which indicates land use.
- (5) Subsection Five. The application shall contain sufficient detail to demonstrate that the proposed plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other accidents. Subsection Five shall include but is not limited to the following:
- (a) A Fire Protection Plan that includes, but is not limited to, maintaining a supply of water on-site and radio or telephone access to the nearest fire department.
 - (b) A Load Checking Program for detecting and discouraging the disposal of hazardous waste in non-hazardous waste facilities.
 - (c) An Accident Prevention Plan designed to prevent spills and other accidents that may occur on the site. The plan shall include but is not limited to providing emergency response instructions, spill prevention and clean-up methods, and worker safety instructional plans.
- (6) Subsection Six. The application shall contain sufficient detail to demonstrate that the proposed traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows. Subsection Six shall include a Traffic Impact Study performed by an experienced traffic engineer who is

registered as a professional engineer in the State of Illinois. The subsection shall include, but is not limited to:

- (a) A statement of the qualifications of the individual and company that completed the study.
- (b) A map showing all roads and highways along with their respective classifications within one mile of the site that will be used by traffic generated by the proposed facility.
- (c) Volume counts taken within the past six months for the roads and highways indicated in (b) above.
- (d) A gap analysis indicating the time intervals for ingressing and egressing the facility,
- (e) A survey of accidents within the past five years that may indicate problem intersections or roads.
- (f) A calculation of average and peak traffic flows that will be generated by the proposed site.
- (g) A statement or report of traffic information regarding the proposed site including the anticipated number and hourly concentration of vehicles and their size, weight and direction of movement.

(7) Subsection Seven. The application shall contain sufficient detail to demonstrate that if the proposed facility will be treating, storing, or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment, and evacuation procedures to be used in case of an accidental release. The subsection shall include the qualifications of the individual and company that completed the study. Subsection Seven shall include, but not be limited to the following:

- (a) Certification that hazardous waste will not be treated, stored, or disposed of on site; or
- (b) A proposed Emergency Response Plan for the site which shall include, but not be limited to:
 - (i) Provision for the notification of appropriate agencies and personnel in the event of a release or substantial threat of a release;
 - (ii) Containment and removal procedures; and
 - (iii) Evacuation procedures for the facility and the surrounding area.

(8) Subsection Eight. The application shall contain sufficient detail to demonstrate that it is consistent with the Lake County Solid Waste Management Plan, as amended and updated. The subsection shall include the qualifications of the individual and company that completed the study.

(9) Subsection Nine. The application shall contain sufficient detail to demonstrate that if the proposed facility will be located within a regulated recharge area, all applicable requirements specified by the Pollution Control Board for such areas have been met. Subsection Nine shall include but is not limited to the following:

- (a) Evidence and documentation that any requirements specified by the Pollution Control Board have been met; or
 - (b) Evidence and documentation that the facility will not be located in a regulated recharge area.
- (10) Subsection Ten. The application shall include the following information:
- (a) A statement describing the past operating experience of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation), with respect to the type of solid waste management facility or solid waste management operations which are the subject of the request for site location approval, such statement to identify, at a minimum, each such past or current operating facility in Illinois, which has received solid waste at any time during the past ten years. Such statement shall also identify particularly the applicant's experience at applicant-designed-and-constructed facilities within the three-state area and the applicant's prior experience with any unusual design or operational features of the proposed facility.
 - (b) Documentation of past record of findings of violations, convictions, or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria two and five as defined by Section 39.2(a) of the Act. The application shall include a clear listing of the following information for the state of Illinois in the last five years:
 - (i) All findings, convictions, or admissions of violations, either criminal or civil, of any foreign, federal, state, or local environmental regulation or statute of (a) the applicant, (b) any subsidiary corporation of the applicant, (c) any parent corporation of the applicant in the field of solid waste management, and (d) any subsidiary of the parent corporation.
 - (ii) Description of solid waste management program operated at the facility which involved the finding(s), conviction(s), or admission(s) of violation(s).
 - (iii) Enforcement action, if any, taken by government entity involved.
 - (iv) Remedial action taken at site, if any, including cost thereof.
 - (c) State whether or not the applicant or operator has ever involuntarily closed a Pollution Control Facility and the location of said facility and the date on which the process of closing started and the date on which it was completed.
 - (d) Certificates of insurance verifying the insurance policies carried by the applicant to cover single accidents, such as fires, explosions, non-sudden accidental occurrences and pollution impairment arising out of the operation of the Pollution Control Facility and resulting in bodily injury, property damage, or environmental impairment.

- (e) A copy of all Host Agreements entered into for the proposed new pollution control facility.
- (C) The application shall meet the following requirements:
- (1) Shall be typed on paper 8 ½ inch x 11 inch, and if necessary 11 inch by 17 inch, in size (except engineering plans and other drawings and plans) and shall be securely bound on the left side.
 - (2) Shall include all information specified in subparagraph (B) above and shall be divided into clearly-marked sections with dividers. Exhibits and drawings shall be clearly marked with respect to which section and subsection they pertain. The pages of the application and all exhibits submitted to the county shall be consecutively numbered and shall specify the section number.
 - (3) Shall be signed by the applicant, or if the application is filed by a corporation, it shall be signed by the principal executive officer.
 - (4) Shall include a face sheet containing only the following information:
 - (a) A statement that it is an application for approval of a site for a new pollution control facility;
 - (b) A statement indicating whether it is an application for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste incinerator, or any combination thereof, or any other type of pollution control facility governed by the Act;
 - (c) The name of the applicant;
 - (d) The principal business address and telephone number of the applicant; and
 - (e) The name, title, address, telephone number, and email address of the person designated by the applicant as its agent for service of notices.
 - (5) Shall be under sworn oath by the applicant, or if a corporation, the principal executive officer thereof, which shall state that the person signing the application has reviewed the application, that they know the contents thereof, and that the statements made therein are true to the best of their knowledge.
 - (6) A minimum of 10 complete copies of requests for site approval, including 10 copies of all site plans, exhibits, and maps shall be filed. The applicant shall also produce 30 USB flash drives of the entire application in .pdf or other searchable electronic format so that the application can be uploaded to the county website and so that read-only copies of the application may be provided to the county board and county staff.
- (D) Upon receipt of an application for site approval, the County Clerk shall date stamp same and immediately deliver seven copies plus all electronic format submissions of the application to the County Administrator.

- (E) A copy of the application and all related documents or other materials on file shall be made available for public inspection in the Office of the County Clerk during normal business hours. Additionally, the Lake County Administrator shall cause a copy of the application and all related documents and materials on file to be available on Lake County's website. Members of the public shall be allowed to obtain a copy of the application or any part thereof upon payment of the actual cost of reproduction. All copying requests shall be fulfilled by the County Clerk within a reasonable time from the time of the request.
- (F) The applicant shall provide one additional copy of the application to each municipality within one and one-half miles of the proposed facility. Applicant shall also provide a copy of the application for site approval to be made available for public inspection to each public library within one and one-half miles of the proposed facility.
- (G) An application for site approval may not be filed which is substantially the same as a request which was disapproved pursuant to a finding against an applicant under any of criteria of Section 39.2(b) of the Act, as amended, within the preceding two years.
- (H) No application for site approval shall be deemed to have been filed or accepted for filing unless all of the requirements of this subchapter, as amended, applicable thereto including payment of application fees shall have been met. The acceptance of the application by the County Clerk is a pro forma acceptance. The applicant is solely responsible for providing sufficient technical information to meet their burden of proving the criteria cited in 415 ILCS 5/39.2 as may be amended from time to time.
- (I) In order to give members of the public an opportunity to make informed written comment pursuant to 415 ILCS 5/39.2(c) and to give members of the public and departments of the county an opportunity to prepare adequately and fairly for the public hearing hereinafter described, the applicant must fully comply with all application requirements as set forth in subsection (B) hereof. Failure to comply with the application requirements shall render the required information inadmissible at the public hearing.
- (J) At any time prior to the completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-questioning by the county and any participants, the applicant may file not more than one amended application upon payment of additional fees in the sum of \$50,000 (\$10,000 for transfer stations); provided, however, that the time limitations for final action by the County Board shall be extended for an additional period of 90 days.
- (K) Other amendments may be made if, in the opinion of the Hearing Officer, the proposed amendment is non-substantive.

§ 50.44 FILING FEE AND ADMINISTRATION OF FEES AND COSTS.

- (A) No application for site approval for a pollution control facility is deemed complete without payment of the applicable filing fee.

- (B) The applicant shall deposit with the County Clerk a fee of \$250,000 with an application for site approval for a pollution control facility, except that an application for a waste transfer station only shall have a fee of \$150,000. Filing fees shall be in the form of a certified or cashier's check made payable to the Lake County Treasurer.
- (C) All expenses incurred by the county in conducting the review of the request for site approval, the subsequent hearing, and the site approval decision shall be paid from the fees as provided in this subchapter, as amended. Application fees shall be used by the County to defray the reasonable and necessary cost of preparing to process and processing the application including, but not limited to, cost of site inspection, clerical expenses, copying costs, notice costs, court reporter fees, Hearing Officer fees, attorney fees, professional consultant fees (i.e. qualified professional engineers, planners, appraisers, etc.), tests, exhibits, and testimony, if any, and other relevant costs incident to the consideration of the application for site approval, the public hearing, the decision and all expenses leading up to the consideration not previously reimbursed and preparing the record on appeal. Costs and expenses incurred by the County in defending an applicant's appeal of a denial of a siting application are specifically exempted from reimbursement.
- (D) In the event that, at any time prior to the conclusion of the site approval decision, the county has expended such sums as to reduce the balance of the application fee to a figure less than \$10,000, the applicant, upon notice from the County, shall deposit an additional \$10,000 to the application fee to cover costs as described above.
- (E) Upon termination of any proceedings under the hearing process, a final accounting and summary of all authorized expenditures and reimbursements shall be presented to the appropriate County Board committees. Any portion of an application fee not required for reimbursement to the county for costs or expenses incurred by the county under the hearing process shall be returned to the applicant. Should there be costs and/or expenses in excess of the amount paid by the applicant in the application fee, the applicant shall bear any and all additional costs. Any portion of the application fee that remains unexpended at the conclusion of the site approval decision shall be returned to the applicant.
- (F) In order to properly administer the application fee received with respect to the hearing process and procedure set forth herein, the Lake County Treasurer is hereby authorized and directed to receive and hold application fees for administration subject to the review and approval of the Planning, Building, Zoning and Environment and the Financial and Administrative Committees.
- (G) In order to expedite payment of all bills incurred as a result of administering the hearing process, all bills and questions concerning billing should be directed to the County Administrator.

§ 50.45 APPOINTMENT AND CONDUCT OF HEARING OFFICER.

- (A) The Lake County State's Attorney shall appoint the Hearing Officer for the public hearing on the request for site approval. The Hearing Officer shall be an attorney licensed to practice in Illinois and shall not have a conflict of interest in the property

or affairs of the applicant or of any participant in the proceeding. The Lake County State's Attorney may remove and/or replace the Hearing Officer at will or upon the request of the County Board Chairman. If the Hearing Officer is replaced, a new hearing officer shall be appointed. In the interim, the hearing may be adjourned or continued, with the County Board Chairman or a County Board member as presiding officer.

- (B) For good cause shown, the Hearing Officer may waive any requirement of this Subchapter except financial requirements.
- (C) The Hearing Officer shall have the following powers and duties:
 - (1) Administer oaths and affirmations.
 - (2) Hold a pre-hearing conference, not less than five business days prior to the date established for the commencement of the hearing. At that time, the applicant, the County and any other participants of record shall participate. The purpose of the pre-hearing conference shall include, but not be limited to, the following: (a) determination of criterions which will be placed in issue by any of the parties at hearing; (b) to the extent necessary and practicable, address any pre-hearing issues which may have arisen; (c) address any pre-hearing motion which has been filed or any motions which will be presented on the first day of hearing prior to the commencement of the evidentiary testimony.
 - (3) Regulate the course of the hearing, including but not limited to, controlling the order of proceedings, consistent with this subchapter.
 - (4) Require witnesses or person presenting unsworn public comment to state their position either for, against, or undecided with respect to the proposed facility.
 - (5) Examine a witness and direct a witness to testify.
 - (6) Establish reasonable limits on the duration of public hearing consistent with the Act and this subchapter, including, but not limited to, the reasonable limitation of sworn testimony, unsworn public comment, direct and cross-examination of any witness, and the limitation of repetitive or cumulative testimony or questioning.
 - (7) Rule upon objections and evidentiary questions, with the understanding that such rulings must be consistent with fundamental fairness, but need not be in strict compliance with the Illinois Supreme Court Rules or Illinois Code of Civil Procedure.
 - (8) The applicant and county's attorney shall be allowed to cross-examine witnesses as of right, subject to such reasonable limitation as may be set by the Hearing Officer. Other participants represented by counsel may be allowed cross-examination in the discretion of the Hearing Officer.
 - (9) The Hearing Officer shall have, consistent with fundamental fairness, the discretion to reasonably limit cross-examination. The Hearing Officer may allow the pro se participants to submit questions to the Hearing Officer who may ask the question, rephrasing, modifying or otherwise changing the question as reasonably necessary. The Hearing Officer may refuse to ask any question consistent with the principles of fundamental fairness.

- (10) Allow the introduction of late-filed evidence, be it written or testimonial, on behalf of any participant, provided good cause is shown for the late-filing, and the evidence is relevant and not unduly prejudicial to the applicant or to another participant so that fundamental fairness to all parties is preserved.
 - (11) Exercise discretion to allow public comments at each hearing or may set one time for public comment.
 - (12) At the conclusion of the public hearing and after consideration of all public comments, the Hearing Officer shall submit a recommendation on the site approval application which includes written findings of fact and conclusions of law to the County Board, and file a copy of such findings with the County Clerk.
 - (13) Prepare the record for appeal with the assistance of the County Clerk.
- (D) No ruling of the Hearing Officer shall be appealable to the County Board.

§ 50.46 COUNTY REVIEW AND PARTICIPATION.

- (A) Upon receipt of a copy of an application for site approval, the County Administrator shall notify the following county departments and/or relevant agencies of that receipt:
 - (1) Department of Planning, Building and Development;
 - (2) Health Department;
 - (3) Public Works Department;
 - (4) Division of Transportation;
 - (5) Solid Waste Agency of Lake County (SWALCO); and
 - (6) Lake County Stormwater Management Commission (SMC).
- (B) The County Administrator may request the Lake County State's Attorney appoint special counsel to the County Administrator to assist in the review and representation of the county staff in the site application approval hearing and process.
- (C) The County Administrator, together with the assistance of special counsel if appointed, shall be the department responsible for coordinating review of the request for site approval by the aforementioned departments and agencies and is authorized to call interdepartmental and agency meetings and set deadlines for the submittal of reports and recommendations.
- (D) The aforementioned departments and agencies may attend the public hearings and may ask questions as needed to assist in reaching their recommendations.
- (E) The aforementioned departments and agencies are authorized to prepare and submit reports and recommendations in response to the request for site approval and shall file them with the County Clerk as set forth in Sec. 50.48.
- (F) The county departments and relevant agencies and consultants retained by the county are authorized to present testimony at the public hearing as set forth in § 50.49.
- (G) The County Administrator, special counsel, the county staff and the county's consultants shall not discuss the application or the review thereof with, nor submit reports or recommendations to, the County Board Chairman, County Board

members, or the State's Attorney or other attorney appointed as counsel to the County Board except in accordance with the public hearing process set forth in this subchapter.

§ 50.47 OTHER PARTIES.

- (A) Any person, group, or party (other than the applicant and the county, through its representative) who desires to participate in the public hearing by providing sworn testimony or submission of written questions shall file an appearance with the County Clerk at least ten days prior to the hearing. Parties wishing an opportunity to cross-examine witnesses must be represented by counsel. Every appearance shall provide the following information: name, address, daytime phone number and email address of the participant or counsel; whether the participant will be participating on their own behalf or as a representative/spokesperson of another person or entity (and if on behalf of an entity the name of the entity); whether the person or entity will be represented by an attorney during the public hearings; and whether the person intends on providing oral testimony or comment during the public hearing.
- (B) Should the public hearing extend beyond one day, additional parties or members of the public, not of record as of the first day of the public hearing, will not be allowed to be a recognized participant at the hearing.
- (C) All reports, studies, exhibits, or other evidence or copies thereof, other than testimony, which any other person desires to submit for the record at the public hearing must be filed with the County Clerk as set forth in Sec. 50.48.

§ 50.48 PARTICIPANTS AT THE HEARING.

- (A) The applicant is a participant.
- (B) The county is a participant. For purposes of the Act, the county employees and staff, and any experts, consultants, investigators or attorneys hired by the county to review, investigate, present at the hearing, or otherwise work for the county concerning the application for site approval, all constitute one participant.
- (C) Other parties who have filed an appearance with the County Clerk in accordance with Sec. 50.47 may appear as a participant. Any such participant may be represented by an attorney provided an appearance has been filed.
- (D) All participants, other than the applicant, shall file with the County Clerk at least 10 days prior to the hearing an original plus two copies of any reports, studies, exhibits, or other evidence or copies thereof, other than testimony, which the participant desires to submit for the record at the public hearing. In the event that the tenth day prior to the date set for public hearing falls on a Saturday, Sunday, or holiday, the next working day shall be considered the day that reports, studies, and exhibits must be filed. The County Clerk shall date stamp any reports, studies, exhibits, or other evidence upon receipt. The County Clerk shall make one copy of a filed document available for public inspection and shall provide one copy to the County Administrator. The County Administrator shall cause any document filed to be

uploaded on the County website. Members of the public shall be allowed to obtain copies of the documents upon payment of the actual cost of reproduction.

- (E) Each participant shall submit to the Hearing Officer a list of witnesses it intends to call and the nature of the anticipated testimony of each such witness by no later than two days prior to the hearing. A participant shall not be permitted to call any witnesses, except rebuttal witnesses, who have not been properly identified in accordance with this requirement.
- (F) Members of the County Board may appear at the hearing and may ask questions or otherwise participate without regard to the written notification required above. The County Board may appear through its counsel.

§ 50.49 PUBLIC HEARING.

- (A) No sooner than 90 days but no longer than 120 days from the date of filing of a complete application for site approval with the County Clerk, a public hearing shall be held.
- (B) Within 30 days of the date of filing of the complete application for site approval, the County Administrator shall determine the date, time, and location of the public hearing. The County Administrator shall provide written notification to the applicant and the County Clerk of the date and location of the public hearing.
- (C) The applicant shall provide notice of the hearing as follows:
 - (1) Publish two legal notices in a newspaper of general circulation published in the county. The first notice shall be published no later than 60 days from the date of filing of an application and the second notice shall be published not later than 14 days before the hearing. The notices shall consist of a display add containing the following information:
 - (a) The name and address of the person, partnership, or corporation requesting site location approval;
 - (b) The owner of the site, if ownership is in a land trust, the names of the beneficiaries of the trust;
 - (c) The legal description of the site;
 - (d) The street address of the property, and if there is no street address applicable to the property, a description of the site with reference to location, ownership, or occupancy or in some other manner that will reasonably identify the property to residents of the neighborhood;
 - (e) The nature and size of the proposed development;
 - (f) The nature of the activity proposed;
 - (g) The probable life of the proposed activity;
 - (h) The time and date of the public hearing;
 - (i) The location of the public hearing;
 - (j) A statement that the application and public record is available for public review on the Lake County website and in the Office of the County Clerk; and
 - (k) A statement that all copies of evidence other than oral testimony to be submitted at the public hearing must be filed with the County Clerk at

least ten days before the public hearing; provided however, that the Hearing Officer, in their sole and absolute discretion, may allow for the admission of evidence at the public hearing, or any continuance thereof, otherwise required to be filed with the Office of the County Clerk in accordance with this Section;

- (1) A statement that any person intending to participate in the public hearing process (through sworn testimony or unsworn oral comment) must file an appearance with the County Clerk at least ten days prior to the public hearing in accordance with § 50.47 of the County Code of Ordinances.
 - (2) Certified mail, return receipt requested, to all members of the General Assembly from the district in which the proposed site is located.
 - (3) Certified mail, return receipt requested, to the Illinois Environmental Protection Agency.
 - (4) Certified mail, return receipt requested, to the governing authority of all municipalities and townships within one and one-half miles of the proposed facility.
- (D) The applicant for site location approval shall have the burden of going forward with evidence of the suitability of the site location for the proposed use. The applicant shall present at least one witness who shall be subject to cross-examination at the hearing.
- (E) Any person appearing at the public hearing as provided for in Section 50.47 shall have the right to give testimony, comment on the suitability of the site location for the proposed use, and submit questions to the Hearing Officer for cross-examination of a witness. An attorney who has filed an appearance on behalf of a participant shall have the right to cross-examine witnesses as may be limited by the Hearing Officer.
- (F) Verbal recording of the public hearing shall be made by a certified reporter and a verbatim transcript prepared. Copies of the transcript shall be made available at cost upon request.
- (G) Conduct of the public hearing shall be substantially as follows:
- (1) Call to order;
 - (2) Introduction of the Hearing Officer and recognition of Lake County Board members in attendance;
 - (3) Recognition of the applicant and identification of the request for site approval;
 - (4) Recognition of fees, notices, and date of filing of the request for site approval;
 - (5) Recognition of the county and other parties registered to participate testify and any other reports, exhibits, maps, or documents of record as filed pursuant to this subchapter, as amended;
 - (6) The applicant, the county, and other registered parties may make an opening statement;
 - (7) The Hearing Officer shall then hear testimony from the applicant and/or any witnesses the applicant may wish to call.

- (8) Upon the close of the applicant's testimony, parties registered to participate, as set forth in (G)(5), may offer expert witnesses and evidence they may wish to present. These other parties may or may not be represented by counsel.
- (9) Upon the close of the applicant's and other parties' testimony and evidence, the county may present any witnesses and evidence it wishes to present.
- (10) Members of the public may then present unsworn oral comment to the Hearing Officer. General comment pursuant to this subsection shall be limited to five minutes per person. The Hearing Officer in their discretion may permit others in attendance at the hearing to make comment or may expand an individual's time for comment if deemed appropriate. Public comments shall not be given the evidentiary weight of sworn testimony subject to cross-examination.
- (11) Summary statements by applicant, other parties, and the county, subject to limitations as imposed by the Hearing Officer;
- (12) Rebuttal statement, if any, by the applicant, subject to limitations as imposed by the Hearing Officer; and
- (13) Hearing closed.
- (H) The Hearing Officer shall decide the order of presentation of testimony subject to this subchapter, as amended;
- (I) All witnesses shall testify under oath. Testimony may include the use of exhibits. All witnesses shall be subject to reasonable questioning as follows: direct, cross-questioning, redirect, recross, and the like. After all parties have presented testimony, reasonable rebuttal, surrebuttal, and the like may be allowed at the discretion of the Hearing Officer.
- (J) Should any issues, facts, data, or other evidence arise during the course of the public hearing, which were not apparent or reasonably foreseeable by a party from the request for site approval as filed with the County Clerk, the situation may constitute grounds for a recess in the public hearing for a period not to exceed five working days.
- (K) The applicant and any participant may submit to the Hearing Officer a post-hearing brief, including proposed findings of fact and conclusions of law, no later than 30 days after conclusion of the public hearing.

§ 50.50 WRITTEN PUBLIC COMMENT.

- (A) At the close of the public hearing the Hearing Officer shall state the date and process for submission of written comments to be considered part of the record. Such date shall be at least 30 days after close of testimony at the hearing. The date set shall not be a Sunday or a federal holiday.
- (B) Upon conclusion of the public hearing, the applicant shall publish legal notice informing the public of the deadline and process for submitting written comment. The County Administrator shall post the information on the Lake County website.
- (C) The County Clerk (on behalf of the County Board) shall accept written comment from any person concerning the appropriateness of the proposed site. Upon receipt

of the written comment, the County Clerk shall date stamp same and shall file written comment and the postmarked envelope in which the comment was received.

- (D) Copies of written comments shall be made available for public inspection in the office of the County Clerk, and members of the public shall be allowed to obtain a copy of any written comment upon payment of actual cost of reproduction.
- (E) Any written comment timely submitted to the County Clerk, including comment postmarked not later than the date set by the Hearing Officer, shall be made part of the record at the public hearing as hereinafter described, and the County Board shall consider any timely written comments in making its final determination concerning the request.

§ 50.51 RECORD.

- (A) The County Clerk shall be responsible for keeping the record of the hearing.
- (B) The record shall consist of the following:
 - (1) The request for site location approval as described in § 50.43;
 - (2) Proof of notice as described in § 50.42;
 - (3) Proof of notice given by applicant pursuant to 415 ILCS 5/39.2(b);
 - (4) Written comments filed by the public and received by the County Clerk or postmarked by the date set by the Hearing Officer;
 - (5) All reports, studies, exhibits, or documents received into evidence at the public hearing. The applicant shall tender as an exhibit a copy of any host agreements entered into relating to the pollution control facility which is the subject of the application;
 - (6) The transcript of the public hearing;
 - (7) All motions filed and written Hearing Officer rulings issued during the public hearing;
 - (8) Findings of fact and recommendations of the Hearing Officer; and
 - (9) The resolution containing the final decision of the County Board.
- (C) The County Clerk shall be responsible for certifying all copies of the record of the public hearing.

§ 50.52 HEARING OFFICER'S RECOMMENDATION AND PROPOSED FINDINGS OF FACT.

- (A) After the public hearing and any continuation thereof, the Hearing Officer shall draft and present to the County Board proposed findings of fact and a recommendation concerning the site approval request. The Hearing Officer may recommend any conditions reasonable and necessary to accomplish the purposes of 39.2 of the Act and not inconsistent with regulations promulgated by the Illinois Pollution Control Board. The findings of fact and recommendation, including recommended conditions, shall be based upon and supported by the record as identified in § 50.51.

- (B) The Hearing Officer's recommendation and findings of fact shall be presented to the County Board Chairman within 15 days of the close of the record.
- (C) The Hearing Officer's recommendation on the request for site approval including any conditions, shall be based on and address the following criteria:
 - (1) The facility is necessary to accommodate the waste needs of the area it is intended to serve.
 - (2) The facility is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected.
 - (3) 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.
 - (4) The facility is located outside the boundary of the 100-year floodplain or the site is flood-proofed.
 - (5) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.
 - (6) The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.
 - (7) If the facility will be treating, storing, or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment, and evacuation procedures to be used in case of an accidental release.
 - (8) The facility is consistent with the Lake County Solid Waste Management Plan adopted by the County Board on September 12, 1989, as amended and updated, in effect at the time of the application.
 - (9) If the facility will be located within a regulated recharge area, any and all applicable requirements specified by the Illinois Pollution Control Board for the area have been met.
- (D) In making a recommendation, the Hearing Officer shall consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation) in the field of solid waste management when considering criteria of subsections (C)(2) and (C)(5) under this section.

§ 50.53 COUNTY BOARD DECISION

- (A) The County Board shall consider the record from the public hearing and the proposed findings of fact and recommendations of the Hearing Officer and shall make a decision concerning a site approval request within 180 days from the filing with the County Clerk an application for site approval. The decision of the County Board shall be in writing, specifying the reasons for the decision, such reasons shall be in conformity with Section 39.2(a) of the Act. The County Board may conditionally approve any request for site approval, provided the conditions are reasonably necessary to accomplish the purposes of the Act and are not inconsistent with regulations promulgated by the Illinois Pollution Control Board. Any determination by the County Board shall be supported by the record.

- (B) If there is no final action by the County Board within 180 days after the filing of the application for site approval, the applicant may deem the application approved unless the time for approval has been extended for an additional period of 90 days pursuant to the Act and this subchapter.
- (C) No determination by the County Board of a site approval request may be reconsidered.
- (D) The decision of the County Board shall be available for public inspection in the Office of the County Clerk and may be copied upon payment of actual cost of reproduction.
- (E) A local siting approval granted under this subchapter shall expire at the end of two calendar years from the date upon which it was granted, unless local siting approval under this subchapter is for a sanitary landfill operation, in which case the approval shall expire after three calendar years from the date which it was granted, unless within that period of time the applicant has made an application to the agency for a permit to develop the site. In the event that the local siting decision has been appealed, the calculation of the expiration date shall be deemed to begin on the date upon which the appeal process is concluded.