

CHAPTER 1

INTRODUCTION

Purpose of this Plan Update. In January 1991, the Will County Board adopted a Solid Waste Management Plan prepared pursuant to the Illinois Solid Waste Planning and Recycling Act (415 ILCS 15/1 et seq.). In 1996, Will County prepared and adopted a five-year Plan update also required by Illinois law. Given the dynamic nature of the solid waste industry, the considerable growth occurring in the County, and the finalization of long-term plans to ensure solid waste disposal capacity within the County, a subsequent update to the Plan is deemed necessary.

This document does not include in-depth analysis of the various solid waste management technologies as was prepared for the original Plan in 1991. The Solid Waste Planning and Recycling Act (415 ILCS 15/1 et seq.) does not require this information to be included in the Plan update, therefore it is not included in this Plan update. Nevertheless, the Solid Waste Management Plan contained in this update supercedes and replaces both the original 1991 Plan and 1996 Plan update and thus becomes the officially adopted Plan for the management of municipal waste generated within the boundaries of Will County.

This Plan update includes the following chapters:

Chapter 2 - updated demographic and waste management data including projections of population, employment and waste generation to the year 2020;

Chapter 3 - a status report on the 1991 Plan and 1996 Plan Update recommendations; and

Chapter 4 - the officially adopted plan for the management of municipal waste generated within the boundaries of Will County.

Legislative Changes. A great deal of solid waste-related legislation has been enacted in Illinois since 1991 (when the original Plan was adopted) that affects the management of municipal waste in Will County. Table 1-1 summarizes the most important solid waste-related legislation that has been passed by the General Assembly and signed into law by the Governor.

Judicial Rulings. Since 1991, there have also been landmark judicial rulings in both the federal and state courts that affect solid waste management in Will County. In addition, the Illinois Pollution Control Board has issued important opinions and orders with regards to solid waste management. Table 1-2 summarizes the most important solid waste-related judicial rulings from the courts as well as opinions and orders of the Illinois Pollution Control Board.

TABLE 1-1. SUMMARY OF SOLID WASTE-RELATED LEGISLATION PASSED IN ILLINOIS SINCE 1991

Legislation	Description of Legislation
P.A. 87-290	Provides that a township operating a recycling program may continue to operate such program, and that operation will constitute implementation of the county recycling program within that township. Authorizes townships to adopt and implement more stringent recycling programs at any time.
P.A. 87-330	Authorizes IEPA to provide financial assistance to counties for the implementation of their Solid Waste Management Plans.
P.A. 87-474	Requires that all paper purchased for printing purposes by the Legislative Printing unit shall have 50% recycled content.
P.A. 87-475	Requires the use of recycled cellulose insulation for weatherization projects.
P.A. 87-476	Requires CMS to develop a program to use retread tires on all State vehicles.
P.A. 87-484	Requires quarterly reports from incinerator and landfill operators indicating the quantity and source of out-of-state waste.
P.A. 87-485	Requires state agencies to use recycled paper and paper products.
P.A. 87-608	Requires new compost facilities to be located 1/8 mile from the nearest residence.
P.A. 87-626	Requires all schools to procure recycled paper and paper products.
P.A. 87-634	Creates a task force on developing new markets for recyclables.
P.A. 87-727	Imposes a \$1 fee on each tire sold at the retail level. Monies collected will be used to assist the used tire recycling/manufacturing industry and to eliminate stockpiles of waste tires. Requires retailers of new tires to accept for recycling used tires collected from customers in a quantity equal to the number of new tires purchased. Limits the disposal of white goods in landfills unless CFC's, mercury and PCB-containing components have been removed.
P.A. 87-735	Requires IEPA to formulate a plan for the collection of small quantities of household hazardous waste. Authorizes the IEPA to issue landscape waste composting facility permits for up to 10 years. Increase the local share of the tip fee surcharge.
P.A. 87-800	Requires hospitals that generate hazardous waste to adopt waste reduction plans.
P.A. 87-847	Authorizes that preference shall be given to bidders using products made from recycled-content.
P.A. 87-858	Moves back the date of the landfill ban on white goods to July 1, 1994. A White Goods Task Force is also created to develop statutory, regulatory and programmatic changes necessary to implement the white goods disposal ban.
P.A. 87-906	Encourages solid waste planning on a multi-county, regional basis.
P.A. 87-1082	Requires school boards, public schools and attendance centers to purchase recycled paper for use in student newspapers.
P.A. 87-1118	Creates the Illinois Adopt-A-Highway Act to allow private citizens to support municipal, township and county anti-littering efforts by allowing groups to adopt a section of highway for the purposes of litter collection.
P.A. 87-1159	Authorizes a grant program to assist local governments to establish a permanent HHW collection center.
P.A. 87-1171	Includes reclaimed asphalt in the definition of "clean construction and demolition debris."
P.A. 87-1213	Bans the disposal of liquid used oil from landfills effective July 1, 1996.

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Legislation	Description of Legislation
P.A. 87-1227	Requires IEPA and ENR to develop and make recommendations regarding standards and testing procedures for end-product compost. Authorizes local governments to use proceeds from the local tipping fee to pay for expenses incurred in the removal of municipal waste illegally dumped on public property.
P.A. 87-1250	Creates the Battery Task Force to study how to deal with household batteries.
P.A. 88-60	Requires ENR to develop and implement a workshop on the feasibility and methods of recycling in high rise, multi-family housing units.
P.A. 88-182	Requires ENR to issue an RFP to establish a wet/dry collection project, to evaluate the feasibility of wet/dry collection systems that divert source separated recyclables and compostable materials from the residential and commercial waste streams.
P.A. 88-293	Requires a pollution control facility that does not accept any municipal waste for a period of 5 or more years to obtain a new operating permit before accepting any waste.
P.A. 88-445	Requires ENR to create a two-year pilot program that provides grants and loans that encourage recycling and waste reduction in economically depressed areas.
P.A. 88-454	Provides that no IEPA Bureau of Land permit is required for the application of vegetable by-products conducted pursuant to a permit issued by the IEPA Bureau of Water.
P.A. 88-474	Exempts HHW collection centers from local siting requirements if the local government agrees to such exemption.
P.A. 88-496	Requires the Pollution Control Board to issue rules that are identical in substance to federal Resource Conservation and Recovery Act regulations related to municipal waste landfills.
P.A. 88-557	Provides that a transfer station used exclusively for transportation of landscape waste is subject to local zoning approval not siting approval.
P.A. 88-681	Removes the words "regional" and "non-regional" from the definition of a pollution control facility.
P.A. 89-101	Requires the IEPA to deny a permit for the construction, development or operation of any new municipal waste incinerator if 1) the Agency finds in the permit application any non-compliance with any current state laws or rules, or 2) the facility will not be able to meet the current air emission regulations within 6 months of operation. Prohibits the Agency from granting any limit of liability waiver to any person seeking to construct or develop a new incinerator or waste-to-energy facility in the future.
P.A. 89-102	Removes the exemption to the SB172 siting law for any new or expanded pollution control facilities sited in unincorporated Cook County.
P.A. 89-122	Clarifies that facilities that store sealed solid waste transfer containers are not classified as waste storage or transfer stations. Exempts these facilities from siting requirements. Also allows uncovered containers of construction and demolition debris only to be stored at these facilities.
P.A. 89-143	Exempts the USA/XL waste processing facility in Crestwood from transfer station setback requirements.

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Legislation	Description of Legislation
P.A. 89-200	Extends the deadline by which landfills must comply with federally-mandated Subtitle D financial assurance requirements. Extends the length of time (from 2 to 3 years) a county board's or municipality's SB172 local siting decision for construction or expansion of a landfill is good for before the applicant would have to re-apply for siting. Exempts from the definition of a "tire storage site" those retail stores that sell tires, provided the retailer stores less than 1,300 recyclable tires on-site, and stores the tires inside a building or in such a manner to prevent the tires from accumulating water.
P.A. 89-443	Eliminates the IEPA's authority to issue Phase III Implementation grants. Transfers monies annually from the Solid Waste Management fund to Brownfield's implementation.
P.A. 89-499	Changes the annual allocation of Used Tire Management funds to state agencies. Abolishes all allocations after July 1, 2000. Requires that all agencies receiving allocations from this fund to report on their activities to the Governor and General Assembly.
P.A. 89-556	Exempts from local siting any waste transfer station that was in existence before January 1, 1979 and was in continuous operation from that date to January 1, 1993, provided 1) the operator submitted a permit application to the IEPA to operate the transfer station during April 1994; 2) the local government in which the facility is located does not object; and 3) the facility has local zoning approval.
P.A. 89-619	Prohibits the disposal of fluorescent and high intensity lights in incinerators. Requires the Pollution Control Board to seek authorization from the USEPA to include fluorescent lights as a category of universal waste subject to the streamlined hazardous waste regulations.
P.A. 90-217	Requires applicant for local siting approval to notify all contiguous municipalities and the county board of the county in which the facility is to be located of the local siting hearing within 14 days prior to the hearing. Specifically allows the county and any contiguous communities to participate in the local siting hearing.
P.A. 90-266	Authorizes the owner or operator of any landfill to accept source separated and processed landscape waste for final disposal, provided the owner or operator has received an IEPA permit to use landscape waste as an alternative daily cover at the landfill.
P.A. 90-344	Prohibits any person from generating, storing, transporting, transferring or operating any facility for the receipt, transfer, recycling or other management of construction/demolition debris without maintenance of load tickets and other manifests reflecting receipt of the debris from the hauler and generator of the debris.
P.A. 90-409	Requires that any host agreements negotiated or entered into between units of local government and a developer to be made public prior to the unit of local government deciding upon siting approval.
P.A. 90-475	Exempts recycling centers that handle only clean construction/demolition debris in Cook and DuPage Counties from local siting, but also requires that these facilities comply with local zoning requirements (where applicable), or in the absence of zoning be located no closer than 1,320 feet from the nearest property zoned for primarily residential uses. Expands the definition of a recycling center to include those facilities accepting general construction/demolition debris for the removal of recyclable materials. Exempts such facilities from IEPA permit requirements. Modifies the purposes for which local governments may utilize their local solid waste tip fee revenues. Prohibits the use of such funds for the construction of any new pollution control facility other than a household hazardous waste facility.
P.A. 90-502	Reclassifies hazardous fluorescent and high intensity discharge lamps as a category of universal waste.
P.A. 90-503	Prohibits local governments from siting new or expanded landfills or waste disposal areas within the 100-year floodplain.

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Legislation	Description of Legislation
P.A. 90-761	Deletes provisions prohibiting persons from conducting any operation for the receipt, transfer, recycling or other management of clean construction or demolition debris without the maintenance of load tickets and certain other manifests. Requires that such persons to maintain certain documentation for three years, except for permitted facilities. Further exempts from the definition of "generation" and "recycling" clean construction and demolition debris when such debris is used as fill, erosion control, or aggregate in roadway shoulder construction.
P.A. 91-909	Changes the definition of "clean construction or demolition debris." Provides that material from certain construction or demolition sites used on the same site as an aboveground mound lower than 20 feet shall not be categorized as "waste."
P.A. 91-856	Maintains indefinitely the current allocation of the State Used Tire Management Fund, the allocation of money in the Fund was scheduled to be discontinued beginning July 1, 2000. Money in the fund over \$2 million are to be allocated 55% to the Agency for enforcement and clean-up and 45% to DCCA for recycling grants and loans.

**TABLE 1-2. SUMMARY OF COURT DECISIONS SINCE 1991 AFFECTING
WILL COUNTY SOLID WASTE PLAN IMPLEMENTATION**

COURT CASE	BACKGROUND AND FINAL DECISION
CASES DECIDED OUTSIDE ILLINOIS	
NSWMA v. Voinovich (C2-89-85, Ohio Federal District Court, 5/1/91)	In 1988, the State of Ohio enacted a law that would 1) allow a tiered-fee structure for waste disposed in Ohio, 2) grant planning districts across the state the discretion to impose fees in addition to the other fees. The Federal District Court ruled that differential fees were a transparent attempt to discourage the shipment of MSW into Ohio.
Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dept. of Natural Resources (U.S. Supreme Court No. 91-636, 6/1/92)	Michigan’s solid waste law prohibited private landfills from accepting MSW that originated outside a county without prior approval of the county, 67% of its municipalities, and the Michigan DNR. The Supreme Court ruled that waste import restrictions “unambiguously discriminate against interstate commerce and are appropriately characterized as protectionist measures. . . . Unless a county acts affirmatively to permit other waste to enter its jurisdiction, the statute affords local waste producers complete protection from competition from out-of-state waste producers who seek to use local waste disposal areas.”
Chemical Waste Management, Inc. v. Hunt (U.S. Supreme Court No. 91-471, 6/1/92).	The State of Alabama imposed a \$72/ton fee on out-of-state hazardous waste destined for commercial hazardous waste facilities located in Alabama. The Supreme Court ruled that Alabama targeted only interstate hazardous waste, and found that “there is absolutely no evidence before this Court that waste generated outside of Alabama is more dangerous than waste generated in Alabama.” Therefore, concerns for the environmental well-being and concern for the health of its citizens are no reasons to discriminate against waste generated out-of-state.
Waste Systems Corp. v. County of Martin and County of Faribault, Minnesota (92-1642,2/18/93).	Waste Systems Corp., an Iowa corporation, contested Minnesota county ordinances mandating the disposal of all wastes generated in the Martin and Faribault Counties at a jointly-owned disposal facility. The U.S. Court of Appeals found that the Facility must be justified on economic terms. Since cheaper alternatives for the management of waste generated in the two Counties exist, the ordinances “discriminate against interstate commerce and are economic protectionist measures that violate the Commerce Clause.”
Waste Management of the Desert, Inc., and the City of Rancho Mirage v. Palm Springs Recycling Center Inc. (California Supreme Court, 3/31/94)	Waste Management and the City of Rancho Mirage, CA sought an injunction against another hauler collecting recyclables in violation of city franchise agreements. The California Supreme Court held that the Integrated Waste Management Act does not allow an exclusive franchise for the collection of recyclables not discarded by their owners. “If the owner of property disposes of it for compensation, it is not waste because it has not been discarded. The owner is not required to transfer this property to the exclusive franchise, but an owner cannot discard property as he sees fit. Discarding property renders the property waste and subjects it to the Act.”
Oregon Waste Systems, Inc. v. Dept. of Environmental Quality (U.S. Supreme Court, No.’s 93-70 & 93-108, 4/4/94)	The State of Oregon imposed a surcharge on “every person who disposed of solid waste generated out-of-state in a disposal site or regional disposal site,” believing out-of-state waste generators were not paying their fair share of the true costs of disposing waste in Oregon. The U.S. Supreme Court ruled that such fees are discriminatory because they impose a higher fee on the disposal of out-of-state waste than on the disposal of identical in-state waste.
C&A Carbone, Inc. v. Town of Clarkstown, NY (114 S. Ct. 1677,1994)	Clarkstown, NY adopted a flow control ordinance which required that all non-hazardous waste within the town be taken to a local transfer station for the purpose of financing the cost of the transfer station through tipping fee revenues. C.A. Carbone challenged the flow control ordinance and the U.S. Supreme Court ruled that such ordinances violate the Commerce Clause of the Constitution.

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COURT CASE	BACKGROUND AND FINAL DECISION
Atlantic Coast Demolition and Recycling v. Board of Chosen Freeholders of Atlantic County, NJ 112 F. 3d 731 (3d Cir. 1997)	New Jersey statewide disposal system discriminates against interstate commerce. The state cannot designate facilities to which hauling in each disposal district must deliver locally generated waste.
SSC Corp. v. Town of Smithtown, NY, 66 F. 3d 502 (Second Circuit Court, 1995)	A local government may engage a private contractor for waste collection services under an agreement that requires the service provider to transport waste to a designated facility without violating the Commerce Clause. However, local governments may not force the contractor, by ordinance, to deliver waste to such a facility.
USA Recycling, Inc. v. Town of Babylon, NY 66 F. 3d 1272 (2d Cir, 1995)	A local government does not discriminate against or burden interstate commerce when it exclusively manages municipal solid waste, even if such action displaces the local commercial garbage market and private firms win the rights to exclusively perform certain functions.
Harvey & Harvey, Inc. v. County of Chester, NJ 68 F. 3d 788 (3d Cir. 1995)	Local governments do not unlawfully interfere with interstate commerce by requiring haulers to bring locally generated solid waste to designated disposal facilities. However, communities must select such facilities using a fair, open and competitive process that does not discriminate against out-of-state interests.
Peake Excavating, Inc. v. Town Board of Hancock 93f. 3d 68 (2d cir. 1996)	A local government does not interfere with interstate commerce when it prohibits the disposal of waste anywhere except at a municipally operated transfer station or landfill.
Individuals for Responsible Government v. Washoe County 110 F. 3d 699 (9 th Cir. 1997)	A local ordinance that requires residents to subscribe to a trash collection service offered by a private hauler that has an exclusive franchise does not violate the Commerce Clause and does not amount to an unconstitutional “taking” of property.
Ben Oehrleins, Inc. v. Hennepin County, MN 115 f. 3d 731 (8 th Cir. 1997)	A local government unlawfully discriminates against interstate commerce when it restricts the flow of waste to out-of-state facilities. However, controlling the disposition of waste destined for in-state disposal may not unreasonably burden commerce. In any event, waste generators whose costs are affected by flow control measures may not challenge the regulations under the Commerce Clause.
Waste Management of Tennessee v. Metro Govt. of Nashville and Davidson County, TN 130 F. 3d 731 (6 th Cir. 1997)	A flow control system for Nashville and surrounding Davidson County discriminates against interstate commerce. The ruling also suggested that another element of the scheme – conditions under which disposal facilities must accept waste delivered by passenger vehicles and pickup trucks – may amount to an unconstitutional “taking” of a waste company’s property.
NSWMA v. Minn. Poll. Control Agency 146 F. 3d 595 (8 th Cir. 1997)	A state solid waste management plan that requires local governments to send waste to designated facilities does not violate the Commerce Clause because the state is acting as a market participant in directing the purchasing behavior of local government units.
Tinnerello & Sons v. Town of Stonington 141 F. 3d 46 (2d Cir. 1998)	A local government may take over municipal solid waste operations, effectively dissolving the private market for commercial waste collection, without violating the Commerce Clause of the U.S. Constitution.

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COURT CASE	BACKGROUND AND FINAL DECISION
Houlton Citizens Coalition v. Town of Houlton 175 F 3d 178 (1 st Cir. 1999)	A local government does not discriminate against interstate commerce or otherwise violate haulers' constitutional rights when it a) contracts with a solid waste collector on an exclusive basis and b) enacts an ordinance to assure that all waste is either collected by the contractor or brought to a designated facility.
United Waste Systems of Iowa v. Wilson 189 F 3d 762 (8 th cir. 1999)	A state solid waste program does not unlawfully interfere with interstate commerce by giving local governments freedom to contract with haulers and landfill operators to designate interstate landfills for their disposal needs.
Village of Rockville Centre v. Town of Hempstead, 196 F 3d 395 (2d Cir. 1999)	When a governmental authority furnishes waste disposal services for municipalities that, in return, provide contractual guarantees of waste supply, such an arrangement is ordinary market transaction that does not interfere with interstate commerce.
U&I Sanitation v. City of Columbus , 205 F.3d 1063 (8 th Cir., 2000)	A municipal ordinance does not discriminate against interstate commerce by requiring haulers to use a specific in-state facility while allowing them free choice of out-of-state disposal sites. Nevertheless, such a restriction can unlawfully burden the interstate market in recyclables.
Huish Detergents v. Warren County, KY 214 F3d 707 (6 th Cir., 2000)	A county ordinance may unlawfully interfere with interstate commerce if it incorporates a waste collection and hauling agreement whereby local residents are obliged to purchase services directly from the exclusive provider. However, the county can achieve the same results without Commerce Clause implications if it directly hires a service provider using public funds.
On the Green Apartments v. City of Tacoma 98-35976 (9 th Cir, 2001)	A local ordinance does not burden interstate commerce if it requires residents and businesses to use city-provided waste collection services and prevents self-hauling by waste generators to in-state disposal sites.
A.G. G. Enterprises v. Washington County, OR 99-1071-KI (2000)	A.G.G. requested a permit to haul waste in Washington County, but was denied. They challenged the exclusive franchise by arguing that under the Federal Aviation Administration Act of 1994 the County could not regulate any private motor carrier with respect to the transportation of property. The District Court found that haulers are motor carriers as defined in the legislation and that they haul property.
Maharg, Inc. v. Van Wert SWMD 99-4035, (6 th Cir 2001)	A waste management agency does not unconstitutionally burden interstate commerce by requiring all solid waste collected within the county to be transported to transfer and disposal facilities designated by the County. In-state and out-of-state facilities were eligible for designation if they contracted with the county to collect and remit to the county a fee on all solid waste from the county.
Randy's Sanitation v. Wright County, MN (98-1205, D. Minnesota 1999)	Wright County passed an ordinance that required all of the county's solid waste discarded in-state to be disposed of at a county-owned composting facility. The District Court ruled that flow control ordinances are unconstitutional as applied to intrastate as well as interstate commerce
United Haulers Assoc. Inc. v. Oneida-Herkimer Solid Waste Authority, 2d Cir, 7-27-01	Reversing a prior federal district decision, the appeals court ruled that Oneida and Herkimer Counties flow control rules are exempt from the Commerce Clause, because the counties designated a publicly owned waste facility for disposal. The prohibition against flow control in the <i>Carbone</i> case only applies to privately owned facilities.

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COURT CASE	BACKGROUND AND FINAL DECISION
Waste Management Holdings v. Gilmore (4 th Cir., 2001)	The federal appeals court ruled that Virginia’s limits on the amount of solid waste that a landfill could accept and its ban on barges transporting solid waste on certain state rivers violates the U.S. Constitution. The decision confirms that states may not pass laws with the intent of stopping the importation of out-of-state waste.
ILLINOIS COURT CASES	
TENNSV, Inc. v. Gade (U.S. District Court of S. Illinois, 92-503 & 92-522, 7/8/93)	TENNSV was engaged in the rail shipment of MSW generated outside Illinois. A contract dispute with another company prevented the waste from being disposed at a landfill in Fairmont City, IL. In the meantime, the waste sat on the tracks for 12 days, thus violating Illinois law. TENNSV was cited by the IEPA for operating a regional pollution control facility without a permit issued by the IEPA. The District Court ruled that this provision of the Illinois Environmental Protection Act violated the Commerce Clause. The effect of this lawsuit is that the words “regional” and “non-regional” were removed from the definition of a pollution control facility and that all pollution control facilities are now subject to local siting under Section 39.2 of the Act.
Residents Against a Polluted Environment (R.A.P.E) and the Thornton Foundation v. PCB, LandComp Corp. and LaSalle County (3 rd District, 11/20/97)	In 1996, LandComp and LaSalle County held meetings to discuss a landfill siting application prior to formally submitting the application to the County. Eventually, the application for siting was granted. RAPE appealed the decision to the PCB claiming the decision was fundamentally unfair given the pre-application contacts. The Board ruled, and the Appellate Court upheld the decision, that the pre-application contacts were not fundamentally unfair, since the Board has no statutory authority to consider evidence of pre-application contacts.
CAO and TOTAL v. IPCB, the City of Salem, Roger Kinney and Roger Friedrichs (Illinois Appellate Court, 5 th District, 4/18/97)	The City of Salem purchased land for a new landfill four days prior to the hearing on the siting application. The application was granted. CAO and TOTAL appealed the decision on the grounds that the decision was against the manifest weight of the evidence and the City had no jurisdiction to rule on the application. The Board ruled, and the Appellate Court upheld the decision, that it could not rule on the City’s annexation of the property. Furthermore, City Council members are not prejudiced simply by having opinions about the application. The record of the hearing reflected impartial rulings on evidence. The Court also ruled that authors of reports in the application may not be compelled to testify.
County of Kane v. IPCB (Illinois Appellate Court, 2 nd District, 9/4/97)	Kane County and Waste Management sought to expand the Settler’s Hill landfill in an unincorporated area of Kane County without involving the City of Geneva, although part of the contiguous site was also located in Geneva. Siting was granted by the County and permit applications were submitted the IEPA. The Agency denied permit applications, since Geneva had not granted siting approval. The IPCB ruled that Geneva’s approval must be sought too. The Board had ruled that a new facility included not only the new area that was to be expanded, but also the area where continued use was planned. Thus, “facility” encompassed the structures and administrative buildings located within Geneva’s corporate limits. The Appellate Court disagreed with the Board finding that the plain language in the Act limits new pollution control facilities for which siting approval must be obtained to the area beyond the boundary of the currently permitted facility.
Concerned Citizens of Williamson County v. IPCB (Illinois Appellate Court, 5 th District, 7/10/97)	Having previously reversed Williamson County’s siting approval on the grounds that the hearing was fundamentally unfair, the County held another hearing and comment period. The County did not reach a decision in the required timeframe, therefore the application was approved by default. Concerned Citizens appealed stating the lack of manifest weight of evidence. The Court ruled that enough evidence was presented at the hearing to satisfy the required criterion. Furthermore, the court upheld the Board’s decision to require Mr. Kibler’s testimony to the County Board (the basis for the original appeal) be open to cross-examination.

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<p>Medical Disposal Services, Inc. and Industrial Fuels and Resources v. IEPA and IPCB (Illinois Appellate Court, 1st District, 9/18/97)</p>	<p>Industrial Fuels was granted siting approval for a facility in Harvey, IL. Subsequent to permit applications being filed, Medical Disposal Services purchased the property on which siting was granted. The IEPA denied permit applications on the grounds that siting approval was applicant-specific and could not be transferred. The Court upheld the Board's decision, stating that the Act requires units of local government to consider the operating experience of the applicant when considering the approval of siting. Since Medical Disposal Services did not seek siting approval, their experience could not be considered.</p>
POLLUTION CONTROL BOARD OPINIONS AND ORDERS	
<p>Concerned Citizens for a Better Environment v. City of Havana and Southwest Energy Corporation (PCB 94-44, 5/19/94)</p>	<p>Several members of the Havana City Council had an invitation-only luncheon meeting with the applicant and an expenses-paid trip to see a similar facility in Massachusetts. In addition, the applicant was allowed to revise the City's siting ordinance and hire the hearing officer directly. The IPCB found that the invitation-only luncheon and trip after the application was filed with the City Council resulted in <i>ex parte</i> communication. In addition, the applicant's influence over the siting ordinance and hiring of the hearing officer lead to a fundamentally unfair proceedings.</p>
<p>Concerned Citizens of Williamson County v. Kibler Development Corp. and the Williamson County Board (PCB 94-262, 1/19/95)</p>	<p>After the required public hearing regarding the applicants local siting application, the Williamson County Board sought additional information from the applicant. The meeting was open to the public, the public was not allowed to participate. The IPCB ruled that the special meeting to discuss technical aspects of the application resulted in a fundamentally unfair proceeding, since the applicant was able to provide information to the County Board, but the public had no opportunity to participate.</p>
<p>R.A.P.E. v. LaSalle County and LandComp Corp. (PCB 96-243, 9/19/96)</p>	<p>LandComp submitted an application for local siting to the LaSalle County Board including company financial information, but this information was never placed into the public record during the hearing process. In addition, contacts between the County's Solid Waste Coordinator, the County's consultant and the applicants consultant took place while the application was pending. The application for siting was eventually granted. The Board ruled that 1) the financial information submitted as part of the application should have been available to the public during the siting process, and 2) the County's Solid Waste Coordinator's participation in contacts between the County's consultant and the applicant's consultant resulted in <i>ex parte</i> communication, since there was no opportunity for cross examination by the public.</p>