



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5545

Introduced 2/15/2012, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.330

was 415 ILCS 5/3.32

Amends the Environmental Protection Act. Specifies that the one-eighth mile setback that certain composting facilities must comply with to be excluded from the definition of the term "pollution control facility" applies only in counties with less than 3,000,000 inhabitants. Effective immediately.

LRB097 19322 JDS 64571 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 3.330 as follows:

6 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

7 Sec. 3.330. Pollution control facility.

8 (a) "Pollution control facility" is any waste storage site,
9 sanitary landfill, waste disposal site, waste transfer
10 station, waste treatment facility, or waste incinerator. This
11 includes sewers, sewage treatment plants, and any other
12 facilities owned or operated by sanitary districts organized
13 under the Metropolitan Water Reclamation District Act.

14 The following are not pollution control facilities:

15 (1) (blank);

16 (2) waste storage sites regulated under 40 CFR, Part
17 761.42;

18 (3) sites or facilities used by any person conducting a
19 waste storage, waste treatment, waste disposal, waste
20 transfer or waste incineration operation, or a combination
21 thereof, for wastes generated by such person's own
22 activities, when such wastes are stored, treated, disposed
23 of, transferred or incinerated within the site or facility

1 owned, controlled or operated by such person, or when such
2 wastes are transported within or between sites or
3 facilities owned, controlled or operated by such person;

4 (4) sites or facilities at which the State is
5 performing removal or remedial action pursuant to Section
6 22.2 or 55.3;

7 (5) abandoned quarries used solely for the disposal of
8 concrete, earth materials, gravel, or aggregate debris
9 resulting from road construction activities conducted by a
10 unit of government or construction activities due to the
11 construction and installation of underground pipes, lines,
12 conduit or wires off of the premises of a public utility
13 company which are conducted by a public utility;

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

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

18 (8) the portion of a site or facility where coal
19 combustion wastes are stored or disposed of in accordance
20 with subdivision (r) (2) or (r) (3) of Section 21;

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

24 (10) the portion of a site or facility used for
25 treatment of petroleum contaminated materials by
26 application onto or incorporation into the soil surface and

1 any portion of that site or facility used for storage of
2 petroleum contaminated materials before treatment. Only
3 those categories of petroleum listed in Section 57.9(a)(3)
4 are exempt under this subdivision (10);

5 (11) the portion of a site or facility where used oil
6 is collected or stored prior to shipment to a recycling or
7 energy recovery facility, provided that the used oil is
8 generated by households or commercial establishments, and
9 the site or facility is a recycling center or a business
10 where oil or gasoline is sold at retail;

11 (11.5) processing sites or facilities that receive
12 only on-specification used oil, as defined in 35 Ill.
13 Admin. Code 739, originating from used oil collectors for
14 processing that is managed under 35 Ill. Admin. Code 739 to
15 produce products for sale to off-site petroleum
16 facilities, if these processing sites or facilities are:
17 (i) located within a home rule unit of local government
18 with a population of at least 30,000 according to the 2000
19 federal census, that home rule unit of local government has
20 been designated as an Urban Round II Empowerment Zone by
21 the United States Department of Housing and Urban
22 Development, and that home rule unit of local government
23 has enacted an ordinance approving the location of the site
24 or facility and provided funding for the site or facility;
25 and (ii) in compliance with all applicable zoning
26 requirements;

1 (12) the portion of a site or facility utilizing coal
2 combustion waste for stabilization and treatment of only
3 waste generated on that site or facility when used in
4 connection with response actions pursuant to the federal
5 Comprehensive Environmental Response, Compensation, and
6 Liability Act of 1980, the federal Resource Conservation
7 and Recovery Act of 1976, or the Illinois Environmental
8 Protection Act or as authorized by the Agency;

9 (13) the portion of a site or facility that (i) accepts
10 exclusively general construction or demolition debris,
11 (ii) is located in a county with a population over
12 3,000,000 as of January 1, 2000 or in a county that is
13 contiguous to such a county, and (iii) is operated and
14 located in accordance with Section 22.38 of this Act;

15 (14) the portion of a site or facility, located within
16 a unit of local government that has enacted local zoning
17 requirements, used to accept, separate, and process
18 uncontaminated broken concrete, with or without protruding
19 metal bars, provided that the uncontaminated broken
20 concrete and metal bars are not speculatively accumulated,
21 are at the site or facility no longer than one year after
22 their acceptance, and are returned to the economic
23 mainstream in the form of raw materials or products;

24 (15) the portion of a site or facility located in a
25 county with a population over 3,000,000 that has obtained
26 local siting approval under Section 39.2 of this Act for a

1 municipal waste incinerator on or before July 1, 2005 and
2 that is used for a non-hazardous waste transfer station;

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

17 (17) the portion of a site or facility located in a
18 county with a population greater than 3,000,000 that has
19 obtained local siting approval, under Section 39.2 of this
20 Act, for a municipal waste incinerator on or before July 1,
21 2005 and that is used for wood combustion facilities for
22 energy recovery that accept and burn only wood material, as
23 included in a fuel specification approved by the Agency;

24 (18) a transfer station used exclusively for landscape
25 waste, including a transfer station where landscape waste
26 is ground to reduce its volume, where the landscape waste

1 is held no longer than 24 hours from the time it was
2 received;

3 (19) the portion of a site or facility that (i) is used
4 for the composting of food scrap, livestock waste, crop
5 residue, uncontaminated wood waste, or paper waste,
6 including, but not limited to, corrugated paper or
7 cardboard, and (ii) meets all of the following
8 requirements:

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

13 (B) All food scrap, livestock waste, crop residue,
14 uncontaminated wood waste, and paper waste must, by the
15 end of each operating day, be processed and placed into
16 an enclosed vessel in which air flow and temperature
17 are controlled, or all of the following additional
18 requirements must be met:

19 (i) The portion of the site or facility used
20 for the composting operation must include a
21 setback of at least 200 feet from the nearest
22 potable water supply well.

23 (ii) The portion of the site or facility used
24 for the composting operation must be located
25 outside the boundary of the 10-year floodplain or
26 floodproofed.

1 (iii) The portion of the site or facility used
2 for the composting operation must be located at
3 least one-eighth of a mile from the nearest
4 residence, other than a residence located on the
5 same property as the site or facility.

6 (iv) In counties with less than 3,000,000
7 inhabitants, the ~~The~~ portion of the site or
8 facility used for the composting operation must be
9 located at least one-eighth of a mile from the
10 property line of all of the following areas:

11 (I) Facilities that primarily serve to
12 house or treat people that are
13 immunocompromised or immunosuppressed, such as
14 cancer or AIDS patients; people with asthma,
15 cystic fibrosis, or bioaerosol allergies; or
16 children under the age of one year.

17 (II) Primary and secondary schools and
18 adjacent areas that the schools use for
19 recreation.

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

24 (v) By the end of each operating day, all food
25 scrap, livestock waste, crop residue,
26 uncontaminated wood waste, and paper waste must be

1 (i) processed into windrows or other piles and (ii)
2 covered in a manner that prevents scavenging by
3 birds and animals and that prevents other
4 nuisances.

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

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

11 (E) The site or facility must not (i) restrict the
12 flow of a 100-year flood, (ii) result in washout of
13 food scrap, livestock waste, crop residue,
14 uncontaminated wood waste, or paper waste from a
15 100-year flood, or (iii) reduce the temporary water
16 storage capacity of the 100-year floodplain, unless
17 measures are undertaken to provide alternative storage
18 capacity, such as by providing lagoons, holding tanks,
19 or drainage around structures at the facility.

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

23 (i) an irreplaceable historic or
24 archaeological site has been listed under the
25 National Historic Preservation Act (16 U.S.C. 470
26 et seq.) or the Illinois Historic Preservation

1 Act;

2 (ii) a natural landmark has been designated by
3 the National Park Service or the Illinois State
4 Historic Preservation Office; or

5 (iii) a natural area has been designated as a
6 Dedicated Illinois Nature Preserve under the
7 Illinois Natural Areas Preservation Act.

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

17 (20) the portion of a site or facility that is located
18 entirely within a home rule unit having a population of no
19 less than 120,000 and no more than 135,000, according to
20 the 2000 federal census, and that meets all of the
21 following requirements:

22 (i) the portion of the site or facility is used
23 exclusively to perform testing of a thermochemical
24 conversion technology using only woody biomass,
25 collected as landscape waste within the boundaries
26 of the home rule unit, as the hydrocarbon feedstock

1 for the production of synthetic gas in accordance
2 with Section 39.9 of this Act;

3 (ii) the portion of the site or facility is in
4 compliance with all applicable zoning
5 requirements; and

6 (iii) a complete application for a
7 demonstration permit at the portion of the site or
8 facility has been submitted to the Agency in
9 accordance with Section 39.9 of this Act within one
10 year after July 27, 2010 (the effective date of
11 Public Act 96-1314);

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

18 (22) the portion of a site or facility that is used to
19 incinerate only pharmaceuticals from residential sources
20 that are collected and transported by law enforcement
21 agencies under Section 17.9A of this Act.

22 (b) A new pollution control facility is:

23 (1) a pollution control facility initially permitted
24 for development or construction after July 1, 1981; or

25 (2) the area of expansion beyond the boundary of a
26 currently permitted pollution control facility; or

1 (3) a permitted pollution control facility requesting
2 approval to store, dispose of, transfer or incinerate, for
3 the first time, any special or hazardous waste.

4 (Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09;
5 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff.
6 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545,
7 eff. 1-1-12.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.