



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3095

Introduced 2/17/2023, by Rep. Barbara Hernandez

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.134 new

415 ILCS 5/3.535

415 ILCS 5/22.54

was 415 ILCS 5/3.53

Amends the Environmental Protection Act. Categorically excludes limestone residuals generated from the treatment of drinking water at a publicly owned drinking water treatment plant from regulation as a waste under the Act when used for specific beneficial purposes. Describes conditions that must be satisfied to obtain a beneficial use determination from the Environmental Protection Agency for these residuals when put to other beneficial uses. Directs the Pollution Control Board to adopt rules establishing standards and procedures for the Agency's issuance of these beneficial use determinations. Authorizes the Agency to prepare and distribute guidance documents relating to its management of limestone residuals from publicly owned drinking water treatment plant. Makes other changes.

LRB103 29060 CPF 55446 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 3.535 and 22.54 and by adding Section 3.134
6 as follows:

7 (415 ILCS 5/3.134 new)

8 Sec. 3.134. Limestone Residual materials.

9 (a) "Limestone residual materials" or "LRM" means
10 limestone residual generated from the treatment of drinking
11 water from a publicly-owned drinking water treatment plant
12 when used beneficially as:

13 (1) a structural fill, designed and constructed
14 according to American Society of Testing and Materials
15 standard E2277-03 or Department of Transportation
16 specifications, when used in an engineered application or
17 combined with cement, sand, or water to produce a
18 controlled strength fill material and covered with 12
19 inches of soil unless infiltration is prevented by the
20 material itself or other cover material;

21 (2) a mine subsidence fill or a material for mine fire
22 control, mine sealing, or mine reclamation; or

23 (3) a functionally equivalent substitute for

1 agricultural limestone at rates necessary for the pH
2 adjustment of soil.

3 (b) Except to the extent that the uses are otherwise
4 authorized by law without such restrictions, the uses of
5 limestone residual materials specified in subsection (a) shall
6 be subject to the following conditions:

7 (1) The LRM must only be generated from the treatment
8 of drinking water by a municipal utility in a Class I city
9 and have a calcium carbonate equivalent greater than 85%.

10 (2) The LRM must not have been mixed with any waste,
11 hazardous or otherwise, prior to use.

12 (3) The LRM must not exceed Class I Groundwater
13 standards for metals when tested utilizing test method
14 American Society of Testing and Materials D3987-85.

15 (4) The LRM must not be accumulated speculatively.
16 Limestone residual materials are not accumulated
17 speculatively if, during any 12-month period, the
18 limestone residual materials used are equal to 75% of the
19 limestone residual materials by weight or volume
20 accumulated at the beginning of the period.

21 (c) Any person using limestone residual materials for any
22 of the purposes described in subsection (a) and meeting the
23 conditions of subsection (b) of this Section shall provide an
24 annual notification to the Agency for each project utilizing
25 limestone residual materials documenting the quantity of
26 limestone residual materials utilized and shall certify

1 compliance with the conditions contained in subsection (b).

2 (d) To encourage and promote the use of limestone residual
3 materials in productive and beneficial applications, the
4 Agency shall, upon request by the applicant, make a written
5 beneficial use determination that limestone residual generated
6 from the treatment of drinking water is limestone residual
7 materials when used in a manner other than those uses
8 specified in subsection (a) of this Section if the applicant
9 demonstrates that use of the limestone residual satisfies all
10 of the following criteria: (i) the use will not cause,
11 threaten, or allow the discharge of any contaminant into the
12 environment; (ii) the use will otherwise protect human health
13 and safety and the environment; and (iii) the use constitutes
14 a legitimate use of the lime sludge as an ingredient or raw
15 material that is an effective substitute for an analogous
16 ingredient or raw material.

17 Within 90 days after the receipt of an application for a
18 beneficial use determination under this subsection, the Agency
19 shall, in writing, approve, disapprove, or approve with
20 conditions the beneficial use. Any disapproval or approval
21 with conditions shall include the Agency's reasons for the
22 disapproval or conditions. Failure of the Agency to issue a
23 decision within 90 days shall constitute disapproval of the
24 beneficial use request. The beneficial use determinations
25 described in this Section are subject to review under Section
26 40 of this Act.

1 Any approval of a beneficial use under this subsection
2 shall become effective upon the date of the Agency's written
3 decision and shall remain in effect for a period of 10 years.
4 If an applicant desires to continue a beneficial use after the
5 expiration of the 10-year period, the applicant must submit an
6 application for renewal no later than 90 days prior to the
7 expiration. The beneficial use approval shall be automatically
8 extended unless denied by the Agency in writing with the
9 Agency's reasons for disapproval, or unless the Agency has
10 requested an extension for review, in which case the use will
11 continue to be allowed until an Agency determination is made.

12 Limestone residual for which a beneficial use is approved
13 pursuant to this subsection shall be considered limestone
14 residual materials during the effective period of the
15 approval, as long as it is used in accordance with the approval
16 and any specified conditions.

17 Notwithstanding the other provisions of this subsection,
18 written beneficial use determination applications for the use
19 of limestone residual materials at sites governed by the
20 federal Surface Mining Control and Reclamation Act of 1977 or
21 the rules and regulations thereunder, or by any law or rule or
22 regulation adopted by the State pursuant thereto, shall be
23 reviewed and approved by the Office of Mines and Minerals
24 within the Department of Natural Resources pursuant to 62 Ill.
25 Adm. Code 1700 through 1850. Further, appeals of those
26 determinations shall be made pursuant to the Illinois

1 Administrative Review Law.

2 The Board shall adopt rules establishing standards and
3 procedures for the Agency's issuance of beneficial use
4 determinations under this subsection. The Board rules may
5 also, but are not required to, include standards and
6 procedures for the revocation of the beneficial use
7 determinations. Prior to the effective date of Board rules
8 adopted under this subsection, the Agency is authorized to
9 make beneficial use determinations in accordance with this
10 subsection.

11 The Agency is authorized to prepare and distribute
12 guidance documents relating to its administration of this
13 Section. Guidance documents prepared under this subsection are
14 not rules for the purposes of the Illinois Administrative
15 Procedure Act.

16 (415 ILCS 5/3.535) (was 415 ILCS 5/3.53)

17 Sec. 3.535. Waste. "Waste" means any garbage, sludge from
18 a waste treatment plant, water supply treatment plant, or air
19 pollution control facility or other discarded material,
20 including solid, liquid, semi-solid, or contained gaseous
21 material resulting from industrial, commercial, mining and
22 agricultural operations, and from community activities, but
23 does not include solid or dissolved material in domestic
24 sewage, or solid or dissolved materials in irrigation return
25 flows, or limestone residual materials as defined in Section

1 3.134, or coal combustion by-products as defined in Section
2 3.135, or industrial discharges which are point sources
3 subject to permits under Section 402 of the Federal Water
4 Pollution Control Act, as now or hereafter amended, or source,
5 special nuclear, or by-product materials as defined by the
6 Atomic Energy Act of 1954, as amended (68 Stat. 921) or any
7 solid or dissolved material from any facility subject to the
8 Federal Surface Mining Control and Reclamation Act of 1977
9 (P.L. 95-87) or the rules and regulations thereunder or any
10 law or rule or regulation adopted by the State of Illinois
11 pursuant thereto.

12 (Source: P.A. 92-574, eff. 6-26-02.)

13 (415 ILCS 5/22.54)

14 Sec. 22.54. Beneficial Use Determinations. The purpose of
15 this Section is to allow the Agency to determine that a
16 material otherwise required to be managed as waste may be
17 managed as non-waste if that material is used beneficially and
18 in a manner that is protective of human health and the
19 environment.

20 (a) To the extent allowed by federal law, the Agency may,
21 upon the request of an applicant, make a written determination
22 that a material is used beneficially (rather than discarded)
23 and, therefore, not a waste if the applicant demonstrates all
24 of the following:

25 (1) The chemical and physical properties of the

1 material are comparable to similar commercially available
2 materials.

3 (2) The market demand for the material is such that
4 all of the following requirements are met:

5 (A) The material will be used within a reasonable
6 time.

7 (B) The material's storage prior to use will be
8 minimized.

9 (C) The material will not be abandoned.

10 (3) The material is legitimately beneficially used.
11 For the purposes of this item (3) of subsection (a) of this
12 Section, a material is "legitimately beneficially used" if
13 the applicant demonstrates all of the following:

14 (A) The material is managed separately from waste,
15 as a valuable material, and in a manner that maintains
16 its beneficial usefulness, including, but not limited
17 to, storing in a manner that minimizes the material's
18 loss and maintains its beneficial usefulness.

19 (B) The material is used as an effective
20 substitute for a similar commercially available
21 material. For the purposes of this paragraph (B) of
22 item (3) of subsection (a) of this Section, a material
23 is "used as an effective substitute for a commercially
24 available material" if the applicant demonstrates one
25 or more of the following:

26 (i) The material is used as a valuable raw

1 material or ingredient to produce a legitimate end
2 product.

3 (ii) The material is used directly as a
4 legitimate end product in place of a similar
5 commercially available product.

6 (iii) The material replaces a catalyst or
7 carrier to produce a legitimate end product.

8 The applicant's demonstration under this paragraph
9 (B) of item (3) of subsection (a) of this Section must
10 include, but is not limited to, a description of the
11 use of the material, a description of the use of the
12 legitimate end product, and a demonstration that the
13 use of the material is comparable to the use of similar
14 commercially available products.

15 (C) The applicant demonstrates all of the
16 following:

17 (i) The material is used under paragraph (B)
18 of item (3) of subsection (a) of this Section
19 within a reasonable time.

20 (ii) The material's storage prior to use is
21 minimized.

22 (iii) The material is not abandoned.

23 (4) The management and use of the material will not
24 cause, threaten, or allow the release of any contaminant
25 into the environment, except as authorized by law.

26 (5) The management and use of the material otherwise

1 protects human health and safety and the environment.

2 (b) Applications for beneficial use determinations must be
3 submitted on forms and in a format prescribed by the Agency.
4 Agency approval, approval with conditions, or disapproval of
5 an application for a beneficial use determination must be in
6 writing. Approvals with conditions and disapprovals of
7 applications for a beneficial use determination must include
8 the Agency's reasons for the conditions or disapproval, and
9 they are subject to review under Section 40 of this Act.

10 (c) Beneficial use determinations shall be effective for a
11 period approved by the Agency, but that period may not exceed 5
12 years. Material that is beneficially used (i) in accordance
13 with a beneficial use determination, (ii) during the effective
14 period of the beneficial use determination, and (iii) by the
15 recipient of a beneficial use determination shall maintain its
16 non-waste status after the effective period of the beneficial
17 use determination unless its use no longer complies with the
18 terms of the beneficial use determination or the material
19 otherwise becomes waste.

20 (d) No recipient of a beneficial use determination shall
21 manage or use the material that is the subject of the
22 determination in violation of the determination or any
23 conditions in the determination, unless the material is
24 managed as waste.

25 (e) A beneficial use determination shall terminate by
26 operation of law if, due to a change in law, it conflicts with

1 the law; however, the recipient of the determination may apply
2 for a new beneficial use determination that is consistent with
3 the law as amended.

4 (f) This Section does not apply to hazardous waste, coal
5 combustion waste, coal combustion by-product, limestone
6 residual materials, sludge applied to the land, potentially
7 infectious medical waste, or used oil.

8 (g) This Section does not apply to material that is burned
9 for energy recovery, that is used to produce a fuel, or that is
10 otherwise contained in a fuel. The prohibition in this
11 subsection (g) does not apply to any dust suppressants applied
12 to a material that is (i) burned for energy recovery, (ii) used
13 to produce a fuel, or (iii) otherwise contained in a fuel.

14 (h) This Section does not apply to waste from the steel and
15 foundry industries that is (i) classified as beneficially
16 usable waste under Board rules and (ii) beneficially used in
17 accordance with Board rules governing the management of
18 beneficially usable waste from the steel and foundry
19 industries. This Section does apply to other beneficial uses
20 of waste from the steel and foundry industries, including, but
21 not limited to, waste that is classified as beneficially
22 usable waste but not used in accordance with the Board's rules
23 governing the management of beneficially usable waste from the
24 steel and foundry industries. No person shall use iron slags,
25 steelmaking slags, or foundry sands for land reclamation
26 purposes unless they have obtained a beneficial use

1 determination for such use under this Section.

2 (i) For purposes of this Section, the term "commercially
3 available material" means virgin material that (i) meets
4 industry standards for a specific use and (ii) is normally
5 sold for such use. For purposes of this Section, the term
6 "commercially available product" means a product made of
7 virgin material that (i) meets industry standards for a
8 specific use and (ii) is normally sold for such use.

9 (j) Before issuing a beneficial use determination for the
10 beneficial use of asphalt shingles, the Agency shall conduct
11 an evaluation of the applicant's prior experience in asphalt
12 shingle recycling operations. The Agency may deny such a
13 beneficial use determination if the applicant, or any employee
14 or officer of the applicant, has a history of any one or more
15 of the following related to the operation of asphalt shingle
16 recycling operation facilities or sites:

17 (1) repeated violations of federal, State, or local
18 laws, rules, regulations, standards, or ordinances;

19 (2) conviction in a court of this State or another
20 state of any crime that is a felony under the laws of this
21 State;

22 (3) conviction in a federal court of any crime that is
23 a felony under federal law;

24 (4) conviction in a court of this State or another
25 state, or in a federal court, of forgery, official
26 misconduct, bribery, perjury, or knowingly submitting

1 false information under any environmental law, rule,
2 regulation, or permit term or condition; or

3 (5) gross carelessness or incompetence in the
4 handling, storing, processing, transporting, disposing, or
5 recycling of asphalt shingles.

6 (Source: P.A. 98-296, eff. 1-1-14; 99-89, eff. 1-1-16.)