



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0414

Introduced 1/26/2005, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.330
415 ILCS 5/21

was 415 ILCS 5/3.32
from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. In the definitions, provides that a facility accepting exclusively general construction or demolition debris and that as of January 1, 2000 is located in a county with a population of 700,000 or more persons is not a pollution control facility under the Act (now, the definition does not have the January 1, 2000 restriction). Makes a similar change regarding waste-storage, waste-treatment, or waste-disposal permits to provide that no permit shall be required for a facility in a county with a population over 700,000 as of January 1, 2000 (now, the January 1, 2000 date is not specified). Effective immediately.

LRB094 06634 RSP 36728 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning pollution control.

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 3.330 and 21 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
24 owned, controlled or operated by such person, or when such
25 wastes are transported within or between sites or
26 facilities owned, controlled or operated by such person;

27 (4) sites or facilities at which the State is
28 performing removal or remedial action pursuant to Section
29 22.2 or 55.3;

30 (5) abandoned quarries used solely for the disposal of
31 concrete, earth materials, gravel, or aggregate debris
32 resulting from road construction activities conducted by a

1 unit of government or construction activities due to the
2 construction and installation of underground pipes, lines,
3 conduit or wires off of the premises of a public utility
4 company which are conducted by a public utility;

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

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

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

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

15 (10) the portion of a site or facility used for
16 treatment of petroleum contaminated materials by
17 application onto or incorporation into the soil surface and
18 any portion of that site or facility used for storage of
19 petroleum contaminated materials before treatment. Only
20 those categories of petroleum listed in Section 57.9(a) (3)
21 are exempt under this subdivision (10);

22 (11) the portion of a site or facility where used oil
23 is collected or stored prior to shipment to a recycling or
24 energy recovery facility, provided that the used oil is
25 generated by households or commercial establishments, and
26 the site or facility is a recycling center or a business
27 where oil or gasoline is sold at retail;

28 (12) the portion of a site or facility utilizing coal
29 combustion waste for stabilization and treatment of only
30 waste generated on that site or facility when used in
31 connection with response actions pursuant to the federal
32 Comprehensive Environmental Response, Compensation, and
33 Liability Act of 1980, the federal Resource Conservation
34 and Recovery Act of 1976, or the Illinois Environmental
35 Protection Act or as authorized by the Agency;

36 (13) the portion of a site or facility accepting

1 exclusively general construction or demolition debris,
2 located in a county with a population over 700,000 as of
3 January 1, 2000, and operated and located in accordance
4 with Section 22.38 of this Act; and

5 (14) the portion of a site or facility, located within
6 a unit of local government that has enacted local zoning
7 requirements, used to accept, separate, and process
8 uncontaminated broken concrete, with or without protruding
9 metal bars, provided that the uncontaminated broken
10 concrete and metal bars are not speculatively accumulated,
11 are at the site or facility no longer than one year after
12 their acceptance, and are returned to the economic
13 mainstream in the form of raw materials or products.

14 (b) A new pollution control facility is:

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

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

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

22 (Source: P.A. 92-574, eff. 6-26-02; 93-998, eff. 8-23-04.)

23 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

24 Sec. 21. Prohibited acts. No person shall:

25 (a) Cause or allow the open dumping of any waste.

26 (b) Abandon, dump, or deposit any waste upon the public
27 highways or other public property, except in a sanitary
28 landfill approved by the Agency pursuant to regulations adopted
29 by the Board.

30 (c) Abandon any vehicle in violation of the "Abandoned
31 Vehicles Amendment to the Illinois Vehicle Code", as enacted by
32 the 76th General Assembly.

33 (d) Conduct any waste-storage, waste-treatment, or
34 waste-disposal operation:

35 (1) without a permit granted by the Agency or in

1 violation of any conditions imposed by such permit,
2 including periodic reports and full access to adequate
3 records and the inspection of facilities, as may be
4 necessary to assure compliance with this Act and with
5 regulations and standards adopted thereunder; provided,
6 however, that, except for municipal solid waste landfill
7 units that receive waste on or after October 9, 1993, no
8 permit shall be required for (i) any person conducting a
9 waste-storage, waste-treatment, or waste-disposal
10 operation for wastes generated by such person's own
11 activities which are stored, treated, or disposed within
12 the site where such wastes are generated, or (ii) a
13 facility located in a county with a population over 700,000
14 as of January 1, 2000, operated and located in accordance
15 with Section 22.38 of this Act, and used exclusively for
16 the transfer, storage, or treatment of general
17 construction or demolition debris;

18 (2) in violation of any regulations or standards
19 adopted by the Board under this Act; or

20 (3) which receives waste after August 31, 1988, does
21 not have a permit issued by the Agency, and is (i) a
22 landfill used exclusively for the disposal of waste
23 generated at the site, (ii) a surface impoundment receiving
24 special waste not listed in an NPDES permit, (iii) a waste
25 pile in which the total volume of waste is greater than 100
26 cubic yards or the waste is stored for over one year, or
27 (iv) a land treatment facility receiving special waste
28 generated at the site; without giving notice of the
29 operation to the Agency by January 1, 1989, or 30 days
30 after the date on which the operation commences, whichever
31 is later, and every 3 years thereafter. The form for such
32 notification shall be specified by the Agency, and shall be
33 limited to information regarding: the name and address of
34 the location of the operation; the type of operation; the
35 types and amounts of waste stored, treated or disposed of
36 on an annual basis; the remaining capacity of the

1 operation; and the remaining expected life of the
2 operation.

3 Item (3) of this subsection (d) shall not apply to any
4 person engaged in agricultural activity who is disposing of a
5 substance that constitutes solid waste, if the substance was
6 acquired for use by that person on his own property, and the
7 substance is disposed of on his own property in accordance with
8 regulations or standards adopted by the Board.

9 This subsection (d) shall not apply to hazardous waste.

10 (e) Dispose, treat, store or abandon any waste, or
11 transport any waste into this State for disposal, treatment,
12 storage or abandonment, except at a site or facility which
13 meets the requirements of this Act and of regulations and
14 standards thereunder.

15 (f) Conduct any hazardous waste-storage, hazardous
16 waste-treatment or hazardous waste-disposal operation:

17 (1) without a RCRA permit for the site issued by the
18 Agency under subsection (d) of Section 39 of this Act, or
19 in violation of any condition imposed by such permit,
20 including periodic reports and full access to adequate
21 records and the inspection of facilities, as may be
22 necessary to assure compliance with this Act and with
23 regulations and standards adopted thereunder; or

24 (2) in violation of any regulations or standards
25 adopted by the Board under this Act; or

26 (3) in violation of any RCRA permit filing requirement
27 established under standards adopted by the Board under this
28 Act; or

29 (4) in violation of any order adopted by the Board
30 under this Act.

31 Notwithstanding the above, no RCRA permit shall be required
32 under this subsection or subsection (d) of Section 39 of this
33 Act for any person engaged in agricultural activity who is
34 disposing of a substance which has been identified as a
35 hazardous waste, and which has been designated by Board
36 regulations as being subject to this exception, if the

1 substance was acquired for use by that person on his own
2 property and the substance is disposed of on his own property
3 in accordance with regulations or standards adopted by the
4 Board.

5 (g) Conduct any hazardous waste-transportation operation:

6 (1) without registering with and obtaining a permit
7 from the Agency in accordance with the Uniform Program
8 implemented under subsection (1-5) of Section 22.2; or

9 (2) in violation of any regulations or standards
10 adopted by the Board under this Act.

11 (h) Conduct any hazardous waste-recycling or hazardous
12 waste-reclamation or hazardous waste-reuse operation in
13 violation of any regulations, standards or permit requirements
14 adopted by the Board under this Act.

15 (i) Conduct any process or engage in any act which produces
16 hazardous waste in violation of any regulations or standards
17 adopted by the Board under subsections (a) and (c) of Section
18 22.4 of this Act.

19 (j) Conduct any special waste transportation operation in
20 violation of any regulations, standards or permit requirements
21 adopted by the Board under this Act. However, sludge from a
22 water or sewage treatment plant owned and operated by a unit of
23 local government which (1) is subject to a sludge management
24 plan approved by the Agency or a permit granted by the Agency,
25 and (2) has been tested and determined not to be a hazardous
26 waste as required by applicable State and federal laws and
27 regulations, may be transported in this State without a special
28 waste hauling permit, and the preparation and carrying of a
29 manifest shall not be required for such sludge under the rules
30 of the Pollution Control Board. The unit of local government
31 which operates the treatment plant producing such sludge shall
32 file a semiannual report with the Agency identifying the volume
33 of such sludge transported during the reporting period, the
34 hauler of the sludge, and the disposal sites to which it was
35 transported. This subsection (j) shall not apply to hazardous
36 waste.

1 (k) Fail or refuse to pay any fee imposed under this Act.

2 (l) Locate a hazardous waste disposal site above an active
3 or inactive shaft or tunneled mine or within 2 miles of an
4 active fault in the earth's crust. In counties of population
5 less than 225,000 no hazardous waste disposal site shall be
6 located (1) within 1 1/2 miles of the corporate limits as
7 defined on June 30, 1978, of any municipality without the
8 approval of the governing body of the municipality in an
9 official action; or (2) within 1000 feet of an existing private
10 well or the existing source of a public water supply measured
11 from the boundary of the actual active permitted site and
12 excluding existing private wells on the property of the permit
13 applicant. The provisions of this subsection do not apply to
14 publicly-owned sewage works or the disposal or utilization of
15 sludge from publicly-owned sewage works.

16 (m) Transfer interest in any land which has been used as a
17 hazardous waste disposal site without written notification to
18 the Agency of the transfer and to the transferee of the
19 conditions imposed by the Agency upon its use under subsection
20 (g) of Section 39.

21 (n) Use any land which has been used as a hazardous waste
22 disposal site except in compliance with conditions imposed by
23 the Agency under subsection (g) of Section 39.

24 (o) Conduct a sanitary landfill operation which is required
25 to have a permit under subsection (d) of this Section, in a
26 manner which results in any of the following conditions:

27 (1) refuse in standing or flowing waters;

28 (2) leachate flows entering waters of the State;

29 (3) leachate flows exiting the landfill confines (as
30 determined by the boundaries established for the landfill
31 by a permit issued by the Agency);

32 (4) open burning of refuse in violation of Section 9 of
33 this Act;

34 (5) uncovered refuse remaining from any previous
35 operating day or at the conclusion of any operating day,
36 unless authorized by permit;

1 (6) failure to provide final cover within time limits
2 established by Board regulations;

3 (7) acceptance of wastes without necessary permits;

4 (8) scavenging as defined by Board regulations;

5 (9) deposition of refuse in any unpermitted portion of
6 the landfill;

7 (10) acceptance of a special waste without a required
8 manifest;

9 (11) failure to submit reports required by permits or
10 Board regulations;

11 (12) failure to collect and contain litter from the
12 site by the end of each operating day;

13 (13) failure to submit any cost estimate for the site
14 or any performance bond or other security for the site as
15 required by this Act or Board rules.

16 The prohibitions specified in this subsection (o) shall be
17 enforceable by the Agency either by administrative citation
18 under Section 31.1 of this Act or as otherwise provided by this
19 Act. The specific prohibitions in this subsection do not limit
20 the power of the Board to establish regulations or standards
21 applicable to sanitary landfills.

22 (p) In violation of subdivision (a) of this Section, cause
23 or allow the open dumping of any waste in a manner which
24 results in any of the following occurrences at the dump site:

25 (1) litter;

26 (2) scavenging;

27 (3) open burning;

28 (4) deposition of waste in standing or flowing waters;

29 (5) proliferation of disease vectors;

30 (6) standing or flowing liquid discharge from the dump
31 site;

32 (7) deposition of:

33 (i) general construction or demolition debris as
34 defined in Section 3.160(a) of this Act; or

35 (ii) clean construction or demolition debris as
36 defined in Section 3.160(b) of this Act.

1 The prohibitions specified in this subsection (p) shall be
2 enforceable by the Agency either by administrative citation
3 under Section 31.1 of this Act or as otherwise provided by this
4 Act. The specific prohibitions in this subsection do not limit
5 the power of the Board to establish regulations or standards
6 applicable to open dumping.

7 (q) Conduct a landscape waste composting operation without
8 an Agency permit, provided, however, that no permit shall be
9 required for any person:

10 (1) conducting a landscape waste composting operation
11 for landscape wastes generated by such person's own
12 activities which are stored, treated or disposed of within
13 the site where such wastes are generated; or

14 (2) applying landscape waste or composted landscape
15 waste at agronomic rates; or

16 (3) operating a landscape waste composting facility on
17 a farm, if the facility meets all of the following
18 criteria:

19 (A) the composting facility is operated by the
20 farmer on property on which the composting material is
21 utilized, and the composting facility constitutes no
22 more than 2% of the property's total acreage, except
23 that the Agency may allow a higher percentage for
24 individual sites where the owner or operator has
25 demonstrated to the Agency that the site's soil
26 characteristics or crop needs require a higher rate;

27 (B) the property on which the composting facility
28 is located, and any associated property on which the
29 compost is used, is principally and diligently devoted
30 to the production of agricultural crops and is not
31 owned, leased or otherwise controlled by any waste
32 hauler or generator of nonagricultural compost
33 materials, and the operator of the composting facility
34 is not an employee, partner, shareholder, or in any way
35 connected with or controlled by any such waste hauler
36 or generator;

1 (C) all compost generated by the composting
2 facility is applied at agronomic rates and used as
3 mulch, fertilizer or soil conditioner on land actually
4 farmed by the person operating the composting
5 facility, and the finished compost is not stored at the
6 composting site for a period longer than 18 months
7 prior to its application as mulch, fertilizer, or soil
8 conditioner;

9 (D) the owner or operator, by January 1, 1990 (or
10 the January 1 following commencement of operation,
11 whichever is later) and January 1 of each year
12 thereafter, (i) registers the site with the Agency,
13 (ii) reports to the Agency on the volume of composting
14 material received and used at the site, (iii) certifies
15 to the Agency that the site complies with the
16 requirements set forth in subparagraphs (A), (B) and
17 (C) of this paragraph (q) (3), and (iv) certifies to the
18 Agency that all composting material was placed more
19 than 200 feet from the nearest potable water supply
20 well, was placed outside the boundary of the 10-year
21 floodplain or on a part of the site that is
22 floodproofed, was placed at least 1/4 mile from the
23 nearest residence (other than a residence located on
24 the same property as the facility) and there are not
25 more than 10 occupied non-farm residences within 1/2
26 mile of the boundaries of the site on the date of
27 application, and was placed more than 5 feet above the
28 water table.

29 For the purposes of this subsection (q), "agronomic rates"
30 means the application of not more than 20 tons per acre per
31 year, except that the Agency may allow a higher rate for
32 individual sites where the owner or operator has demonstrated
33 to the Agency that the site's soil characteristics or crop
34 needs require a higher rate.

35 (r) Cause or allow the storage or disposal of coal
36 combustion waste unless:

1 (1) such waste is stored or disposed of at a site or
2 facility for which a permit has been obtained or is not
3 otherwise required under subsection (d) of this Section; or

4 (2) such waste is stored or disposed of as a part of
5 the design and reclamation of a site or facility which is
6 an abandoned mine site in accordance with the Abandoned
7 Mined Lands and Water Reclamation Act; or

8 (3) such waste is stored or disposed of at a site or
9 facility which is operating under NPDES and Subtitle D
10 permits issued by the Agency pursuant to regulations
11 adopted by the Board for mine-related water pollution and
12 permits issued pursuant to the Federal Surface Mining
13 Control and Reclamation Act of 1977 (P.L. 95-87) or the
14 rules and regulations thereunder or any law or rule or
15 regulation adopted by the State of Illinois pursuant
16 thereto, and the owner or operator of the facility agrees
17 to accept the waste; and either

18 (i) such waste is stored or disposed of in
19 accordance with requirements applicable to refuse
20 disposal under regulations adopted by the Board for
21 mine-related water pollution and pursuant to NPDES and
22 Subtitle D permits issued by the Agency under such
23 regulations; or

24 (ii) the owner or operator of the facility
25 demonstrates all of the following to the Agency, and
26 the facility is operated in accordance with the
27 demonstration as approved by the Agency: (1) the
28 disposal area will be covered in a manner that will
29 support continuous vegetation, (2) the facility will
30 be adequately protected from wind and water erosion,
31 (3) the pH will be maintained so as to prevent
32 excessive leaching of metal ions, and (4) adequate
33 containment or other measures will be provided to
34 protect surface water and groundwater from
35 contamination at levels prohibited by this Act, the
36 Illinois Groundwater Protection Act, or regulations

1 adopted pursuant thereto.

2 Notwithstanding any other provision of this Title, the
3 disposal of coal combustion waste pursuant to item (2) or (3)
4 of this subdivision (r) shall be exempt from the other
5 provisions of this Title V, and notwithstanding the provisions
6 of Title X of this Act, the Agency is authorized to grant
7 experimental permits which include provision for the disposal
8 of wastes from the combustion of coal and other materials
9 pursuant to items (2) and (3) of this subdivision (r).

10 (s) After April 1, 1989, offer for transportation,
11 transport, deliver, receive or accept special waste for which a
12 manifest is required, unless the manifest indicates that the
13 fee required under Section 22.8 of this Act has been paid.

14 (t) Cause or allow a lateral expansion of a municipal solid
15 waste landfill unit on or after October 9, 1993, without a
16 permit modification, granted by the Agency, that authorizes the
17 lateral expansion.

18 (u) Conduct any vegetable by-product treatment, storage,
19 disposal or transportation operation in violation of any
20 regulation, standards or permit requirements adopted by the
21 Board under this Act. However, no permit shall be required
22 under this Title V for the land application of vegetable
23 by-products conducted pursuant to Agency permit issued under
24 Title III of this Act to the generator of the vegetable
25 by-products. In addition, vegetable by-products may be
26 transported in this State without a special waste hauling
27 permit, and without the preparation and carrying of a manifest.

28 (v) (Blank).

29 (w) Conduct any generation, transportation, or recycling
30 of construction or demolition debris, clean or general, or
31 uncontaminated soil generated during construction, remodeling,
32 repair, and demolition of utilities, structures, and roads that
33 is not commingled with any waste, without the maintenance of
34 documentation identifying the hauler, generator, place of
35 origin of the debris or soil, the weight or volume of the
36 debris or soil, and the location, owner, and operator of the

1 facility where the debris or soil was transferred, disposed,
2 recycled, or treated. This documentation must be maintained by
3 the generator, transporter, or recycler for 3 years. This
4 subsection (w) shall not apply to (1) a permitted pollution
5 control facility that transfers or accepts construction or
6 demolition debris, clean or general, or uncontaminated soil for
7 final disposal, recycling, or treatment, (2) a public utility
8 (as that term is defined in the Public Utilities Act) or a
9 municipal utility, (3) the Illinois Department of
10 Transportation, or (4) a municipality or a county highway
11 department, with the exception of any municipality or county
12 highway department located within a county having a population
13 of over 3,000,000 inhabitants or located in a county that is
14 contiguous to a county having a population of over 3,000,000
15 inhabitants; but it shall apply to an entity that contracts
16 with a public utility, a municipal utility, the Illinois
17 Department of Transportation, or a municipality or a county
18 highway department. The terms "generation" and "recycling" as
19 used in this subsection do not apply to clean construction or
20 demolition debris when (i) used as fill material below grade
21 outside of a setback zone if covered by sufficient
22 uncontaminated soil to support vegetation within 30 days of the
23 completion of filling or if covered by a road or structure,
24 (ii) solely broken concrete without protruding metal bars is
25 used for erosion control, or (iii) milled asphalt or crushed
26 concrete is used as aggregate in construction of the shoulder
27 of a roadway. The terms "generation" and "recycling", as used
28 in this subsection, do not apply to uncontaminated soil that is
29 not commingled with any waste when (i) used as fill material
30 below grade or contoured to grade, or (ii) used at the site of
31 generation.

32 (Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.