



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

**HB4648**

by Rep. Marcus C. Evans, Jr.

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.330  
415 ILCS 5/22.54

was 415 ILCS 5/3.32

Amends the Environmental Protection Act. Provides that the portion of a site or facility operating under a Beneficial Use Determination, as determined by the Agency, in accordance with a specified provision of the Act, is not a pollution control facility. Provides that, to the extent allowed by federal law, the Agency may, upon the request of an applicant, make a written determination that a material is used beneficially (rather than discarded) and, therefore, not a waste if the applicant demonstrates that not less than 98% of the volume of material accepted, by weight, is recovered or recycled.

LRB098 17172 MGM 52259 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 3.330 and 22.54 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) Except in municipalities with more than  
2 1,000,000 inhabitants, the portion of the site or  
3 facility used for the composting operation must be  
4 located at least one-eighth of a mile from the  
5 nearest residence, other than a residence located  
6 on the same property as the site or facility.

7 (iv) The portion of the site or facility used  
8 for the composting operation must be located at  
9 least one-eighth of a mile from the property line  
10 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);

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; and

22 (23) until July 1, 2017, the portion of a site or  
23 facility:

24 (A) that is used exclusively for the transfer of  
25 commingled landscape waste and food scrap held at the  
26 site or facility for no longer than 24 hours after

1 their receipt;

2 (B) that is located entirely within a home rule  
3 unit having a population of either (i) not less than  
4 100,000 and not more than 115,000 according to the 2010  
5 federal census or (ii) not less than 5,000 and not more  
6 than 10,000 according to the 2010 federal census;

7 (C) that is permitted, by the Agency, prior to  
8 January 1, 2002, for the transfer of landscape waste;  
9 and

10 (D) for which a permit application is submitted to  
11 the Agency within 6 months after January 1, 2014 (the  
12 effective date of Public Act 98-146) ~~this amendatory~~  
13 ~~Act of the 98th General Assembly~~ to modify an existing  
14 permit for the transfer of landscape waste to also  
15 include, on a demonstration basis not to exceed 18  
16 months, the transfer of commingled landscape waste and  
17 food scrap.

18 (24) the portion of a site or facility operating under  
19 a Beneficial Use Determination, as determined by the  
20 Agency, in accordance with Section 22.54 of this Act.

21 (b) A new pollution control facility is:

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

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

26 (3) a permitted pollution control facility requesting

1 approval to store, dispose of, transfer or incinerate, for  
2 the first time, any special or hazardous waste.

3 (Source: P.A. 97-333, eff. 8-12-11; 97-545, eff. 1-1-12;  
4 98-146, eff. 1-1-14; 98-239, eff. 8-9-13; revised 9-19-13.)

5 (415 ILCS 5/22.54)

6 Sec. 22.54. Beneficial Use Determinations. The purpose of  
7 this Section is to allow the Agency to determine that a  
8 material otherwise required to be managed as waste may be  
9 managed as non-waste if that material is used beneficially and  
10 in a manner that is protective of human health and the  
11 environment.

12 (a) To the extent allowed by federal law, the Agency may,  
13 upon the request of an applicant, make a written determination  
14 that a material is used beneficially (rather than discarded)  
15 and, therefore, not a waste if the applicant demonstrates all  
16 of the following:

17 (1) The chemical and physical properties of the  
18 material are comparable to similar commercially available  
19 materials.

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

22 (A) The material will be used within a reasonable  
23 time.

24 (B) The material's storage prior to use will be  
25 minimized.

1 (C) The material will not be abandoned.

2 (3) The material is legitimately beneficially used.  
3 For the purposes of this item (3) of subsection (a) of this  
4 Section, a material is "legitimately beneficially used" if  
5 the applicant demonstrates all of the following:

6 (A) The material is managed separately from waste,  
7 as a valuable material, and in a manner that maintains  
8 its beneficial usefulness, including, but not limited  
9 to, storing in a manner that minimizes the material's  
10 loss and maintains its beneficial usefulness.

11 (B) The material is used as an effective substitute  
12 for a similar commercially available material. For the  
13 purposes of this paragraph (B) of item (3) of  
14 subsection (a) of this Section, a material is "used as  
15 an effective substitute for a commercially available  
16 material" if the applicant demonstrates one or more of  
17 the following:

18 (i) The material is used as a valuable raw  
19 material or ingredient to produce a legitimate end  
20 product.

21 (ii) The material is used directly as a  
22 legitimate end product in place of a similar  
23 commercially available product.

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

26 The applicant's demonstration under this paragraph

1 (B) of item (3) of subsection (a) of this Section must  
2 include, but is not limited to, a description of the  
3 use of the material, a description of the use of the  
4 legitimate end product, and a demonstration that the  
5 use of the material is comparable to the use of similar  
6 commercially available products.

7 (C) The applicant demonstrates all of the  
8 following:

9 (i) The material is used under paragraph (B) of  
10 item (3) of subsection (a) of this Section within a  
11 reasonable time.

12 (ii) The material's storage prior to use is  
13 minimized.

14 (iii) The material is not abandoned.

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

18 (5) The management and use of the material otherwise  
19 protects human health and safety and the environment.

20 (6) Not less than 98% of the volume of material  
21 accepted, by weight, is recovered or recycled.

22 (b) Applications for beneficial use determinations must be  
23 submitted on forms and in a format prescribed by the Agency.  
24 Agency approval, approval with conditions, or disapproval of an  
25 application for a beneficial use determination must be in  
26 writing. Approvals with conditions and disapprovals of

1 applications for a beneficial use determination must include  
2 the Agency's reasons for the conditions or disapproval, and  
3 they are subject to review under Section 40 of this Act.

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

14 (d) No recipient of a beneficial use determination shall  
15 manage or use the material that is the subject of the  
16 determination in violation of the determination or any  
17 conditions in the determination, unless the material is managed  
18 as waste.

19 (e) A beneficial use determination shall terminate by  
20 operation of law if, due to a change in law, it conflicts with  
21 the law; however, the recipient of the determination may apply  
22 for a new beneficial use determination that is consistent with  
23 the law as amended.

24 (f) This Section does not apply to hazardous waste, coal  
25 combustion waste, coal combustion by-product, sludge applied  
26 to the land, potentially infectious medical waste, or used oil.



1           (g) This Section does not apply to material that is burned  
2 for energy recovery, that is used to produce a fuel, or that is  
3 otherwise contained in a fuel.

4           (h) This Section does not apply to waste from the steel and  
5 foundry industries that is (i) classified as beneficially  
6 usable waste under Board rules and (ii) beneficially used in  
7 accordance with Board rules governing the management of  
8 beneficially usable waste from the steel and foundry  
9 industries. This Section does apply to other beneficial uses of  
10 waste from the steel and foundry industries, including, but not  
11 limited to, waste that is classified as beneficially usable  
12 waste but not used in accordance with the Board's rules  
13 governing the management of beneficially usable waste from the  
14 steel and foundry industries. No person shall use iron slags,  
15 steelmaking slags, or foundry sands for land reclamation  
16 purposes unless they have obtained a beneficial use  
17 determination for such use under this Section.

18           (i) For purposes of this Section, the term "commercially  
19 available material" means virgin material that (i) meets  
20 industry standards for a specific use and (ii) is normally sold  
21 for such use. For purposes of this Section, the term  
22 "commercially available product" means a product made of virgin  
23 material that (i) meets industry standards for a specific use  
24 and (ii) is normally sold for such use.

25           (j) Before issuing a beneficial use determination for the  
26 beneficial use of asphalt shingles, the Agency shall conduct an

1 evaluation of the applicant's prior experience in asphalt  
2 shingle recycling operations. The Agency may deny such a  
3 beneficial use determination if the applicant, or any employee  
4 or officer of the applicant, has a history of any one or more  
5 of the following related to the operation of asphalt shingle  
6 recycling operation facilities or sites:

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

9 (2) conviction in a court of this State or another  
10 state of any crime that is a felony under the laws of this  
11 State;

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

14 (4) conviction in a court of this State or another  
15 state, or in a federal court, of forgery, official  
16 misconduct, bribery, perjury, or knowingly submitting  
17 false information under any environmental law, rule,  
18 regulation, or permit term or condition; or

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

22 (Source: P.A. 98-296, eff. 1-1-14.)