

AN ACT concerning safety.

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

Section 5. The Environmental Protection Act is amended by changing Section 22.54 as follows:

(415 ILCS 5/22.54)

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

(a) 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 all of the following:

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

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

(A) The material will be used within a reasonable

time.

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

(C) The material will not be abandoned.

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

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

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

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

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

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

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

(C) The applicant demonstrates all of the following:

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

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

(iii) The material is not abandoned.

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

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

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

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

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

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

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

(f) This Section does not apply to hazardous waste, coal combustion waste, coal combustion by-product, sludge applied

to the land, potentially infectious medical waste, or used oil.

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

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

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

(j) Before issuing a beneficial use determination for the

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

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

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

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

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

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

(Source: P.A. 96-489, eff. 8-14-09.)