



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB2891

Introduced 2/19/2021, by Rep. Randy E. Frese

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Provides that incidental sales of finished compost do need not to be applied to agronomic rates in determining whether a person needs a permit to conduct a landscape waste composting operation at specified sites. Removes a provision requiring that no fee is charged for the acceptance of materials to be composted in order for a site having 10 or more occupied non-farm residences within 1/2 mile of its boundaries to be excepted from permit requirements.

LRB102 14399 CPF 19751 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 21 as follows:

6 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

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

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

9 (b) Abandon, dump, or deposit any waste upon the public  
10 highways or other public property, except in a sanitary  
11 landfill approved by the Agency pursuant to regulations  
12 adopted by the Board.

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

16 (d) Conduct any waste-storage, waste-treatment, or  
17 waste-disposal operation:

18 (1) without a permit granted by the Agency or in  
19 violation of any conditions 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; provided,

1           however, that, except for municipal solid waste landfill  
2           units that receive waste on or after October 9, 1993, and  
3           CCR surface impoundments, no permit shall be required for  
4           (i) any person conducting a waste-storage,  
5           waste-treatment, or waste-disposal operation for wastes  
6           generated by such person's own activities which are  
7           stored, treated, or disposed within the site where such  
8           wastes are generated, or (ii) a facility located in a  
9           county with a population over 700,000 as of January 1,  
10          2000, operated and located in accordance with Section  
11          22.38 of this Act, and used exclusively for the transfer,  
12          storage, or treatment of general construction or  
13          demolition debris, provided that the facility was  
14          receiving construction or demolition debris on August 24,  
15          2009 (the effective date of Public Act 96-611) ~~this~~  
16          ~~amendatory Act of the 96th General Assembly;~~

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

19                 (3) which receives waste after August 31, 1988, does  
20                 not have a permit issued by the Agency, and is (i) a  
21                 landfill used exclusively for the disposal of waste  
22                 generated at the site, (ii) a surface impoundment  
23                 receiving special waste not listed in an NPDES permit,  
24                 (iii) a waste pile in which the total volume of waste is  
25                 greater than 100 cubic yards or the waste is stored for  
26                 over one year, or (iv) a land treatment facility receiving

1 special waste generated at the site; without giving notice  
2 of the operation to the Agency by January 1, 1989, or 30  
3 days after the date on which the operation commences,  
4 whichever is later, and every 3 years thereafter. The form  
5 for such notification shall be specified by the Agency,  
6 and shall be limited to information regarding: the name  
7 and address of the location of the operation; the type of  
8 operation; the types and amounts of waste stored, treated  
9 or disposed of on an annual basis; the remaining capacity  
10 of the operation; and the remaining expected life of the  
11 operation.

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

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

19 (e) Dispose, treat, store or abandon any waste, or  
20 transport any waste into this State for disposal, treatment,  
21 storage or abandonment, except at a site or facility which  
22 meets the requirements of this Act and of regulations and  
23 standards thereunder.

24 (f) Conduct any hazardous waste-storage, hazardous  
25 waste-treatment or hazardous waste-disposal operation:

26 (1) without a RCRA permit for the site issued by the

1 Agency under subsection (d) of Section 39 of this Act, or  
2 in violation of any condition imposed by such permit,  
3 including periodic reports and full access to adequate  
4 records and the inspection of facilities, as may be  
5 necessary to assure compliance with this Act and with  
6 regulations and standards adopted thereunder; or

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

9 (3) in violation of any RCRA permit filing requirement  
10 established under standards adopted by the Board under  
11 this Act; or

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

14 Notwithstanding the above, no RCRA permit shall be  
15 required under this subsection or subsection (d) of Section 39  
16 of this Act for any person engaged in agricultural activity  
17 who is disposing of a substance which has been identified as a  
18 hazardous waste, and which has been designated by Board  
19 regulations as being subject to this exception, if the  
20 substance was acquired for use by that person on his own  
21 property and the substance is disposed of on his own property  
22 in accordance with regulations or standards adopted by the  
23 Board.

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

25 (1) without registering with and obtaining a special  
26 waste hauling permit from the Agency in accordance with

1 the regulations adopted by the Board under this Act; or

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

4 (h) Conduct any hazardous waste-recycling or hazardous  
5 waste-reclamation or hazardous waste-reuse operation in  
6 violation of any regulations, standards or permit requirements  
7 adopted by the Board under this Act.

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

12 (j) Conduct any special waste-transportation ~~waste~~  
13 ~~transportation~~ operation in violation of any regulations,  
14 standards or permit requirements adopted by the Board under  
15 this Act. However, sludge from a water or sewage treatment  
16 plant owned and operated by a unit of local government which  
17 (1) is subject to a sludge management plan approved by the  
18 Agency or a permit granted by the Agency, and (2) has been  
19 tested and determined not to be a hazardous waste as required  
20 by applicable State and federal laws and regulations, may be  
21 transported in this State without a special waste hauling  
22 permit, and the preparation and carrying of a manifest shall  
23 not be required for such sludge under the rules of the  
24 Pollution Control Board. The unit of local government which  
25 operates the treatment plant producing such sludge shall file  
26 an annual report with the Agency identifying the volume of

1 such sludge transported during the reporting period, the  
2 hauler of the sludge, and the disposal sites to which it was  
3 transported. This subsection (j) shall not apply to hazardous  
4 waste.

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

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

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

26 (n) Use any land which has been used as a hazardous waste

1 disposal site except in compliance with conditions imposed by  
2 the Agency under subsection (g) of Section 39.

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

7 (1) refuse in standing or flowing waters;

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

9 (3) leachate flows exiting the landfill confines (as  
10 determined by the boundaries established for the landfill  
11 by a permit issued by the Agency);

12 (4) open burning of refuse in violation of Section 9  
13 of this Act;

14 (5) uncovered refuse remaining from any previous  
15 operating day or at the conclusion of any operating day,  
16 unless authorized by permit;

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

19 (7) acceptance of wastes without necessary permits;

20 (8) scavenging as defined by Board regulations;

21 (9) deposition of refuse in any unpermitted portion of  
22 the landfill;

23 (10) acceptance of a special waste without a required  
24 manifest;

25 (11) failure to submit reports required by permits or  
26 Board regulations;



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

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

6           The prohibitions specified in this subsection (o) shall be  
7 enforceable by the Agency either by administrative citation  
8 under Section 31.1 of this Act or as otherwise provided by this  
9 Act. The specific prohibitions in this subsection do not limit  
10 the power of the Board to establish regulations or standards  
11 applicable to sanitary landfills.

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

15           (1) litter;

16           (2) scavenging;

17           (3) open burning;

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

19           (5) proliferation of disease vectors;

20           (6) standing or flowing liquid discharge from the dump  
21 site;

22           (7) deposition of:

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

25           (ii) clean construction or demolition debris as  
26 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  
13 within the site where such wastes are generated; or

14           (1.5) conducting a landscape waste composting  
15 operation that (i) has no more than 25 cubic yards of  
16 landscape waste, composting additives, composting  
17 material, or end-product compost on-site at any one time  
18 and (ii) is not engaging in commercial activity; or

19           (2) applying landscape waste or composted landscape  
20 waste at agronomic rates; or

21           (2.5) operating a landscape waste composting facility  
22 at a site having 10 or more occupied non-farm residences  
23 within 1/2 mile of its boundaries, if the facility meets  
24 all of the following criteria:

25           (A) the composting facility is operated by the  
26 farmer on property on which the composting material is

1 utilized, and the composting facility constitutes no  
2 more than 2% of the site's total acreage;

3 (A-5) any composting additives that the composting  
4 facility accepts and uses at the facility are  
5 necessary to provide proper conditions for composting  
6 and do not exceed 10% of the total composting material  
7 at the facility at any one time;

8 (B) the property on which the composting facility  
9 is located, and any associated property on which the  
10 compost is used, is principally and diligently devoted  
11 to the production of agricultural crops and is not  
12 owned, leased, or otherwise controlled by any waste  
13 hauler or generator of nonagricultural compost  
14 materials, and the operator of the composting facility  
15 is not an employee, partner, shareholder, or in any  
16 way connected with or controlled by any such waste  
17 hauler or generator;

18 (C) all compost generated by the composting  
19 facility, except incidental sales of finished compost,  
20 is applied at agronomic rates and used as mulch,  
21 fertilizer, or soil conditioner on land actually  
22 farmed by the person operating the composting  
23 facility, and the finished compost is not stored at  
24 the composting site for a period longer than 18 months  
25 prior to its application as mulch, fertilizer, or soil  
26 conditioner;

1           (D) (blank) ~~no fee is charged for the acceptance of~~  
2 ~~materials to be composted at the facility;~~ and

3           (E) the owner or operator, by January 1, 2014 (or  
4 the January 1 following commencement of operation,  
5 whichever is later) and January 1 of each year  
6 thereafter, registers the site with the Agency, (ii)  
7 reports to the Agency on the volume of composting  
8 material received and used at the site; (iii)  
9 certifies to the Agency that the site complies with  
10 the requirements set forth in subparagraphs (A),  
11 (A-5), (B), (C), and (D) of this paragraph (2.5); and  
12 (iv) certifies to the Agency that all composting  
13 material was placed more than 200 feet from the  
14 nearest potable water supply well, was placed outside  
15 the boundary of the 10-year floodplain or on a part of  
16 the site that is floodproofed, was placed at least 1/4  
17 mile from the nearest residence (other than a  
18 residence located on the same property as the  
19 facility) or a lesser distance from the nearest  
20 residence (other than a residence located on the same  
21 property as the facility) if the municipality in which  
22 the facility is located has by ordinance approved a  
23 lesser distance than 1/4 mile, and was placed more  
24 than 5 feet above the water table; any ordinance  
25 approving a residential setback of less than 1/4 mile  
26 that is used to meet the requirements of this

1           subparagraph (E) of paragraph (2.5) of this subsection  
2           must specifically reference this paragraph; or

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

6                   (A) the composting facility is operated by the  
7                   farmer on property on which the composting material is  
8                   utilized, and the composting facility constitutes no  
9                   more than 2% of the property's total acreage, except  
10                  that the Board may allow a higher percentage for  
11                  individual sites where the owner or operator has  
12                  demonstrated to the Board that the site's soil  
13                  characteristics or crop needs require a higher rate;

14                   (A-1) the composting facility accepts from other  
15                   agricultural operations for composting with landscape  
16                   waste no materials other than uncontaminated and  
17                   source-separated (i) crop residue and other  
18                   agricultural plant residue generated from the  
19                   production and harvesting of crops and other customary  
20                   farm practices, including, but not limited to, stalks,  
21                   leaves, seed pods, husks, bagasse, and roots and (ii)  
22                   plant-derived animal bedding, such as straw or  
23                   sawdust, that is free of manure and was not made from  
24                   painted or treated wood;

25                   (A-2) any composting additives that the composting  
26                   facility accepts and uses at the facility are

1 necessary to provide proper conditions for composting  
2 and do not exceed 10% of the total composting material  
3 at the facility at any one time;

4 (B) the property on which the composting facility  
5 is located, and any associated property on which the  
6 compost is used, is principally and diligently devoted  
7 to the production of agricultural crops and is not  
8 owned, leased or otherwise controlled by any waste  
9 hauler or generator of nonagricultural compost  
10 materials, and the operator of the composting facility  
11 is not an employee, partner, shareholder, or in any  
12 way connected with or controlled by any such waste  
13 hauler or generator;

14 (C) all compost generated by the composting  
15 facility, except incidental sales of finished compost,  
16 is applied at agronomic rates and used as mulch,  
17 fertilizer or soil conditioner on land actually farmed  
18 by the person operating the composting facility, and  
19 the finished compost is not stored at the composting  
20 site for a period longer than 18 months prior to its  
21 application as mulch, fertilizer, or soil conditioner;

22 (D) the owner or operator, by January 1 of each  
23 year, (i) registers the site with the Agency, (ii)  
24 reports to the Agency on the volume of composting  
25 material received and used at the site, (iii)  
26 certifies to the Agency that the site complies with

1 the requirements set forth in subparagraphs (A),  
2 (A-1), (A-2), (B), and (C) of this paragraph (q)(3),  
3 and (iv) certifies to the Agency that all composting  
4 material:

5 (I) was placed more than 200 feet from the  
6 nearest potable water supply well;

7 (II) was placed outside the boundary of the  
8 10-year floodplain or on a part of the site that is  
9 floodproofed;

10 (III) was placed either (aa) at least 1/4 mile  
11 from the nearest residence (other than a residence  
12 located on the same property as the facility) and  
13 there are not more than 10 occupied non-farm  
14 residences within 1/2 mile of the boundaries of  
15 the site on the date of application or (bb) a  
16 lesser distance from the nearest residence (other  
17 than a residence located on the same property as  
18 the facility) provided that the municipality or  
19 county in which the facility is located has by  
20 ordinance approved a lesser distance than 1/4 mile  
21 and there are not more than 10 occupied non-farm  
22 residences within 1/2 mile of the boundaries of  
23 the site on the date of application; and

24 (IV) was placed more than 5 feet above the  
25 water table.

26 Any ordinance approving a residential setback of

1           less than 1/4 mile that is used to meet the  
2           requirements of this subparagraph (D) must  
3           specifically reference this subparagraph.

4           For the purposes of this subsection (q), "agronomic rates"  
5           means the application of not more than 20 tons per acre per  
6           year, except that the Board may allow a higher rate for  
7           individual sites where the owner or operator has demonstrated  
8           to the Board that the site's soil characteristics or crop  
9           needs require a higher rate.

10          (r) Cause or allow the storage or disposal of coal  
11          combustion waste unless:

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

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

20               (3) such waste is stored or disposed of at a site or  
21               facility which is operating under NPDES and Subtitle D  
22               permits issued by the Agency pursuant to regulations  
23               adopted by the Board for mine-related water pollution and  
24               permits issued pursuant to the federal ~~Federal~~ Surface  
25               Mining Control and Reclamation Act of 1977 (P.L. 95-87) or  
26               the rules and regulations thereunder or any law or rule or



1 regulation adopted by the State of Illinois pursuant  
2 thereto, and the owner or operator of the facility agrees  
3 to accept the waste; and either:

4 (i) such waste is stored or disposed of in  
5 accordance with requirements applicable to refuse  
6 disposal under regulations adopted by the Board for  
7 mine-related water pollution and pursuant to NPDES and  
8 Subtitle D permits issued by the Agency under such  
9 regulations; or

10 (ii) the owner or operator of the facility  
11 demonstrates all of the following to the Agency, and  
12 the facility is operated in accordance with the  
13 demonstration as approved by the Agency: (1) the  
14 disposal area will be covered in a manner that will  
15 support continuous vegetation, (2) the facility will  
16 be adequately protected from wind and water erosion,  
17 (3) the pH will be maintained so as to prevent  
18 excessive leaching of metal ions, and (4) adequate  
19 containment or other measures will be provided to  
20 protect surface water and groundwater from  
21 contamination at levels prohibited by this Act, the  
22 Illinois Groundwater Protection Act, or regulations  
23 adopted pursuant thereto.

24 Notwithstanding any other provision of this Title, the  
25 disposal of coal combustion waste pursuant to item (2) or (3)  
26 of this subdivision (r) shall be exempt from the other

1 provisions of this Title V, and notwithstanding the provisions  
2 of Title X of this Act, the Agency is authorized to grant  
3 experimental permits which include provision for the disposal  
4 of wastes from the combustion of coal and other materials  
5 pursuant to items (2) and (3) of this subdivision (r).

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

10 (t) Cause or allow a lateral expansion of a municipal  
11 solid waste landfill unit on or after October 9, 1993, without  
12 a permit modification, granted by the Agency, that authorizes  
13 the lateral expansion.

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

25 (v) (Blank).

26 (w) Conduct any generation, transportation, or recycling

1 of construction or demolition debris, clean or general, or  
2 uncontaminated soil generated during construction, remodeling,  
3 repair, and demolition of utilities, structures, and roads  
4 that is not commingled with any waste, without the maintenance  
5 of documentation identifying the hauler, generator, place of  
6 origin of the debris or soil, the weight or volume of the  
7 debris or soil, and the location, owner, and operator of the  
8 facility where the debris or soil was transferred, disposed,  
9 recycled, or treated. This documentation must be maintained by  
10 the generator, transporter, or recycler for 3 years. This  
11 subsection (w) shall not apply to (1) a permitted pollution  
12 control facility that transfers or accepts construction or  
13 demolition debris, clean or general, or uncontaminated soil  
14 for final disposal, recycling, or treatment, (2) a public  
15 utility (as that term is defined in the Public Utilities Act)  
16 or a municipal utility, (3) the Illinois Department of  
17 Transportation, or (4) a municipality or a county highway  
18 department, with the exception of any municipality or county  
19 highway department located within a county having a population  
20 of over 3,000,000 inhabitants or located in a county that is  
21 contiguous to a county having a population of over 3,000,000  
22 inhabitants; but it shall apply to an entity that contracts  
23 with a public utility, a municipal utility, the Illinois  
24 Department of Transportation, or a municipality or a county  
25 highway department. The terms "generation" and "recycling" as  
26 used in this subsection do not apply to clean construction or

1 demolition debris when (i) used as fill material below grade  
2 outside of a setback zone if covered by sufficient  
3 uncontaminated soil to support vegetation within 30 days of  
4 the completion of filling or if covered by a road or structure,  
5 (ii) solely broken concrete without protruding metal bars is  
6 used for erosion control, or (iii) milled asphalt or crushed  
7 concrete is used as aggregate in construction of the shoulder  
8 of a roadway. The terms "generation" and "recycling", as used  
9 in this subsection, do not apply to uncontaminated soil that  
10 is not commingled with any waste when (i) used as fill material  
11 below grade or contoured to grade, or (ii) used at the site of  
12 generation.

13 (Source: P.A. 100-103, eff. 8-11-17; 101-171, eff. 7-30-19;  
14 revised 9-12-19.)