

1 AN ACT in relation to environmental matters.

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  
5 by changing Sections 3.160 and 21 as follows:

6 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

7 Sec. 3.160. Construction or demolition debris.

8 (a) "General construction or demolition debris" means  
9 non-hazardous, uncontaminated materials resulting from the  
10 construction, remodeling, repair, and demolition of  
11 utilities, structures, and roads, limited to the following:  
12 bricks, concrete, and other masonry materials; soil; rock;  
13 wood, including non-hazardous painted, treated, and coated  
14 wood and wood products; wall coverings; plaster; drywall;  
15 plumbing fixtures; non-asbestos insulation; roofing shingles  
16 and other roof coverings; reclaimed asphalt pavement; glass;  
17 plastics that are not sealed in a manner that conceals waste;  
18 electrical wiring and components containing no hazardous  
19 substances; and piping or metals incidental to any of those  
20 materials.

21 General construction or demolition debris does not  
22 include uncontaminated soil generated during construction,  
23 remodeling, repair, and demolition of utilities, structures,  
24 and roads provided the uncontaminated soil is not commingled  
25 with any general construction or demolition debris or other  
26 waste.

27 (b) "Clean construction or demolition debris" means  
28 uncontaminated broken concrete without protruding metal bars,  
29 bricks, rock, stone, reclaimed asphalt pavement, or soil  
30 generated from construction or demolition activities.

31 Clean construction or demolition debris does not include

1 uncontaminated soil generated during construction,  
 2 remodeling, repair, and demolition of utilities, structures,  
 3 and roads provided the uncontaminated soil is not commingled  
 4 with any clean construction or demolition debris or other  
 5 waste.

6 To the extent allowed by federal law, clean construction  
 7 or demolition debris shall not be considered "waste" if it is  
 8 (i) used as fill material below-grade outside of a setback  
 9 zone if the fill is placed no higher than the highest point  
 10 of elevation existing prior to the filling immediately  
 11 adjacent to the fill area, and if covered by sufficient  
 12 uncontaminated soil to support vegetation within 30 days of  
 13 the completion of filling or if covered by a road or  
 14 structure, or (ii) separated or processed and returned to the  
 15 economic mainstream in the form of raw materials or products,  
 16 if it is not speculatively accumulated and, if used as a fill  
 17 material, it is used in accordance with item (i) within 30  
 18 days of its generation, or (iii) solely broken concrete  
 19 without protruding metal bars used for erosion control, or  
 20 (iv) generated from the construction or demolition of a  
 21 building, road, or other structure and used to construct, on  
 22 the site where the construction or demolition has taken  
 23 place, a an--above-grade-area-shaped-so-as-to-blend-into-an  
 24 extension-of-the-surrounding--topography--or--an--above-grade  
 25 manmade functional structure not to exceed 20 feet above the  
 26 highest point of elevation of the property immediately  
 27 adjacent to the new manmade functional structure as that  
 28 elevation existed prior to the creation of that new structure  
 29 in--height, provided that the area--or structure shall be  
 30 covered with sufficient soil materials to sustain vegetation  
 31 or by a road or structure, and further provided that no such  
 32 area--or structure shall be constructed within a home rule  
 33 municipality with a population over 500,000 without the  
 34 consent of the municipality.

1 (Source: P.A. 91-909, eff. 7-7-00; 92-574, eff. 6-26-02.)

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

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

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

5 (b) Abandon, dump, or deposit any waste upon the public  
6 highways or other public property, except in a sanitary  
7 landfill approved by the Agency pursuant to regulations  
8 adopted by the Board.

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

12 (d) Conduct any waste-storage, waste-treatment, or  
13 waste-disposal operation:

14 (1) without a permit granted by the Agency or in  
15 violation of any conditions imposed by such permit,  
16 including periodic reports and full access to adequate  
17 records and the inspection of facilities, as may be  
18 necessary to assure compliance with this Act and with  
19 regulations and standards adopted thereunder; provided,  
20 however, that, except for municipal solid waste landfill  
21 units that receive waste on or after October 9, 1993, no  
22 permit shall be required for (i) any person conducting a  
23 waste-storage, waste-treatment, or waste-disposal  
24 operation for wastes generated by such person's own  
25 activities which are stored, treated, or disposed within  
26 the site where such wastes are generated, or (ii) a  
27 facility located in a county with a population over  
28 700,000, operated and located in accordance with Section  
29 22.38 of this Act, and used exclusively for the transfer,  
30 storage, or treatment of general construction or  
31 demolition debris;

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

1           (3) which receives waste after August 31, 1988,  
2 does not have a permit issued by the Agency, and is (i) a  
3 landfill used exclusively for the disposal of waste  
4 generated at the site, (ii) a surface impoundment  
5 receiving special waste not listed in an NPDES permit,  
6 (iii) a waste pile in which the total volume of waste is  
7 greater than 100 cubic yards or the waste is stored for  
8 over one year, or (iv) a land treatment facility  
9 receiving special waste generated at the site; without  
10 giving notice of the operation to the Agency by January  
11 1, 1989, or 30 days after the date on which the operation  
12 commences, whichever is later, and every 3 years  
13 thereafter. The form for such notification shall be  
14 specified by the Agency, and shall be limited to  
15 information regarding: the name and address of the  
16 location of the operation; the type of operation; the  
17 types and amounts of waste stored, treated or disposed of  
18 on an annual basis; the remaining capacity of the  
19 operation; and the remaining expected life of the  
20 operation.

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

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

28           (e) Dispose, treat, store or abandon any waste, or  
29 transport any waste into this State for disposal, treatment,  
30 storage or abandonment, except at a site or facility which  
31 meets the requirements of this Act and of regulations and  
32 standards thereunder.

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

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

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

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

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

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

25          (g) Conduct any hazardous waste-transportation  
26 operation:

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

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

32          (h) Conduct any hazardous waste-recycling or hazardous  
33 waste-reclamation or hazardous waste-reuse operation in  
34 violation of any regulations, standards or permit

1 requirements adopted by the Board under this Act.

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

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

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

27 (l) Locate a hazardous waste disposal site above an  
28 active or inactive shaft or tunneled mine or within 2 miles  
29 of an active fault in the earth's crust. In counties of  
30 population less than 225,000 no hazardous waste disposal site  
31 shall be located (1) within 1 1/2 miles of the corporate  
32 limits as defined on June 30, 1978, of any municipality  
33 without the approval of the governing body of the  
34 municipality in an official action; or (2) within 1000 feet

1 of an existing private well or the existing source of a  
2 public water supply measured from the boundary of the actual  
3 active permitted site and excluding existing private wells on  
4 the property of the permit applicant. The provisions of this  
5 subsection do not apply to publicly-owned sewage works or the  
6 disposal or utilization of sludge from publicly-owned sewage  
7 works.

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

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

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

20 (1) refuse in standing or flowing waters;

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

22 (3) leachate flows exiting the landfill confines  
23 (as determined by the boundaries established for the  
24 landfill by a permit issued by the Agency);

25 (4) open burning of refuse in violation of Section  
26 9 of this Act;

27 (5) uncovered refuse remaining from any previous  
28 operating day or at the conclusion of any operating day,  
29 unless authorized by permit;

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

32 (7) acceptance of wastes without necessary permits;

33 (8) scavenging as defined by Board regulations;

34 (9) deposition of refuse in any unpermitted portion

1 of the landfill;

2 (10) acceptance of a special waste without a  
3 required manifest;

4 (11) failure to submit reports required by permits  
5 or Board regulations;

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

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

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

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

21 (1) litter;

22 (2) scavenging;

23 (3) open burning;

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

26 (5) proliferation of disease vectors;

27 (6) standing or flowing liquid discharge from the  
28 dump site;

29 (7) deposition of:

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

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

34 The prohibitions specified in this subsection (p) shall



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

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

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

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

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

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

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

1 or controlled by any such waste hauler or generator;

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

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

31 For the purposes of this subsection (q), "agronomic  
32 rates" means the application of not more than 20 tons per  
33 acre per year, except that the Agency may allow a higher rate  
34 for individual sites where the owner or operator has

1 demonstrated to the Agency that the site's soil  
2 characteristics or crop needs require a higher rate.

3 (r) Cause or allow the storage or disposal of coal  
4 combustion waste unless:

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

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

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

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

29 (ii) the owner or operator of the facility  
30 demonstrates all of the following to the Agency, and  
31 the facility is operated in accordance with the  
32 demonstration as approved by the Agency: (1) the  
33 disposal area will be covered in a manner that will  
34 support continuous vegetation, (2) the facility will

1           be adequately protected from wind and water erosion,  
2           (3) the pH will be maintained so as to prevent  
3           excessive leaching of metal ions, and (4) adequate  
4           containment or other measures will be provided to  
5           protect surface water and groundwater from  
6           contamination at levels prohibited by this Act, the  
7           Illinois Groundwater Protection Act, or regulations  
8           adopted pursuant thereto.

9           Notwithstanding any other provision of this Title, the  
10          disposal of coal combustion waste pursuant to item (2) or (3)  
11          of this subdivision (r) shall be exempt from the other  
12          provisions of this Title V, and notwithstanding the  
13          provisions of Title X of this Act, the Agency is authorized  
14          to grant experimental permits which include provision for the  
15          disposal of wastes from the combustion of coal and other  
16          materials pursuant to items (2) and (3) of this subdivision  
17          (r).

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

23          (t) Cause or allow a lateral expansion of a municipal  
24          solid waste landfill unit on or after October 9, 1993,  
25          without a permit modification, granted by the Agency, that  
26          authorizes the lateral expansion.

27          (u) Conduct any vegetable by-product treatment, storage,  
28          disposal or transportation operation in violation of any  
29          regulation, standards or permit requirements adopted by the  
30          Board under this Act. However, no permit shall be required  
31          under this Title V for the land application of vegetable  
32          by-products conducted pursuant to Agency permit issued under  
33          Title III of this Act to the generator of the vegetable  
34          by-products. In addition, vegetable by-products may be

1 transported in this State without a special waste hauling  
2 permit, and without the preparation and carrying of a  
3 manifest.

4 (v) (Blank).

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

1 uncontaminated soil to support vegetation within 30 days of  
2 the completion of filling or if covered by a road or  
3 structure, (ii) solely broken concrete without protruding  
4 metal bars is used for erosion control, or (iii) milled  
5 asphalt or crushed concrete is used as aggregate in  
6 construction of the shoulder of a roadway. The terms  
7 "generation" and "recycling", as used in this subsection, do  
8 not apply to uncontaminated soil that is not commingled with  
9 any waste when (i) used as fill material below grade or  
10 contoured to grade, or (ii) used at the site of generation.  
11 (Source: P.A. 91-72, eff. 7-9-99; 92-574, eff. 6-26-02.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.