



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB2169

Introduced 2/26/2007, by Rep. Michael J. Madigan - Barbara Flynn Currie - Thomas Holbrook

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Makes a technical change in a Section concerning acts prohibited under the Act.

LRB095 01174 CMK 21176 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 ~~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 adopted  
12 by the Board.

13 (c) Abandon any vehicle in violation of the "Abandoned  
14 Vehicles Amendment to the Illinois Vehicle Code", as enacted by  
15 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, no  
3           permit shall be required for (i) any person conducting a  
4           waste-storage, waste-treatment, or waste-disposal  
5           operation for wastes generated by such person's own  
6           activities which are stored, treated, or disposed within  
7           the site where such wastes are generated, or (ii) a  
8           facility located in a county with a population over 700,000  
9           as of January 1, 2000, operated and located in accordance  
10          with Section 22.38 of this Act, and used exclusively for  
11          the transfer, storage, or treatment of general  
12          construction or demolition debris;

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

15           (3) which receives waste after August 31, 1988, does  
16          not have a permit issued by the Agency, and is (i) a  
17          landfill used exclusively for the disposal of waste  
18          generated at the site, (ii) a surface impoundment receiving  
19          special waste not listed in an NPDES permit, (iii) a waste  
20          pile in which the total volume of waste is greater than 100  
21          cubic yards or the waste is stored for over one year, or  
22          (iv) a land treatment facility receiving special waste  
23          generated at the site; without giving notice of the  
24          operation to the Agency by January 1, 1989, or 30 days  
25          after the date on which the operation commences, whichever  
26          is later, and every 3 years thereafter. The form for such

1 notification shall be specified by the Agency, and shall be  
2 limited to information regarding: the name and address of  
3 the location of the operation; the type of operation; the  
4 types and amounts of waste stored, treated or disposed of  
5 on an annual basis; the remaining capacity of the  
6 operation; and the remaining expected life of the  
7 operation.

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

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

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

20 (f) Conduct any hazardous waste-storage, hazardous  
21 waste-treatment or hazardous waste-disposal operation:

22 (1) without a RCRA permit for the site issued by the  
23 Agency under subsection (d) of Section 39 of this Act, or  
24 in violation of any condition imposed by such permit,  
25 including periodic reports and full access to adequate  
26 records and the inspection of facilities, as may be

1 necessary to assure compliance with this Act and with  
2 regulations and standards adopted thereunder; or

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

5 (3) in violation of any RCRA permit filing requirement  
6 established under standards adopted by the Board under this  
7 Act; or

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

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

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

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

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

26 (h) Conduct any hazardous waste-recycling or hazardous

1 waste-reclamation or hazardous waste-reuse operation in  
2 violation of any regulations, standards or permit requirements  
3 adopted by the Board under this Act.

4 (i) Conduct any process or engage in any act which produces  
5 hazardous waste in violation of any regulations or standards  
6 adopted by the Board under subsections (a) and (c) of Section  
7 22.4 of this Act.

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

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

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

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

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

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

26           (1) refuse in standing or flowing waters;

- 1 (2) leachate flows entering waters of the State;
- 2 (3) leachate flows exiting the landfill confines (as  
3 determined by the boundaries established for the landfill  
4 by a permit issued by the Agency);
- 5 (4) open burning of refuse in violation of Section 9 of  
6 this Act;
- 7 (5) uncovered refuse remaining from any previous  
8 operating day or at the conclusion of any operating day,  
9 unless authorized by permit;
- 10 (6) failure to provide final cover within time limits  
11 established by Board regulations;
- 12 (7) acceptance of wastes without necessary permits;
- 13 (8) scavenging as defined by Board regulations;
- 14 (9) deposition of refuse in any unpermitted portion of  
15 the landfill;
- 16 (10) acceptance of a special waste without a required  
17 manifest;
- 18 (11) failure to submit reports required by permits or  
19 Board regulations;
- 20 (12) failure to collect and contain litter from the  
21 site by the end of each operating day;
- 22 (13) failure to submit any cost estimate for the site  
23 or any performance bond or other security for the site as  
24 required by this Act or Board rules.

25 The prohibitions specified in this subsection (o) shall be  
26 enforceable by the Agency either by administrative citation



1 under Section 31.1 of this Act or as otherwise provided by this  
2 Act. The specific prohibitions in this subsection do not limit  
3 the power of the Board to establish regulations or standards  
4 applicable to sanitary landfills.

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

8 (1) litter;

9 (2) scavenging;

10 (3) open burning;

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

12 (5) proliferation of disease vectors;

13 (6) standing or flowing liquid discharge from the dump  
14 site;

15 (7) deposition of:

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

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

20 The prohibitions specified in this subsection (p) shall be  
21 enforceable by the Agency either by administrative citation  
22 under Section 31.1 of this Act or as otherwise provided by this  
23 Act. The specific prohibitions in this subsection do not limit  
24 the power of the Board to establish regulations or standards  
25 applicable to open dumping.

26 (q) Conduct a landscape waste composting operation without

1 an Agency permit, provided, however, that no permit shall be  
2 required for any person:

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

7 (2) applying landscape waste or composted landscape  
8 waste at agronomic rates; or

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

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

20 (B) the property on which the composting facility  
21 is located, and any associated property on which the  
22 compost is used, is principally and diligently devoted  
23 to the production of agricultural crops and is not  
24 owned, leased or otherwise controlled by any waste  
25 hauler or generator of nonagricultural compost  
26 materials, and the operator of the composting facility

1 is not an employee, partner, shareholder, or in any way  
2 connected with or controlled by any such waste hauler  
3 or generator;

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

12 (D) the owner or operator, by January 1, 1990 (or  
13 the January 1 following commencement of operation,  
14 whichever is later) and January 1 of each year  
15 thereafter, (i) registers the site with the Agency,  
16 (ii) reports to the Agency on the volume of composting  
17 material received and used at the site, (iii) certifies  
18 to the Agency that the site complies with the  
19 requirements set forth in subparagraphs (A), (B) and  
20 (C) of this paragraph (q)(3), and (iv) certifies to the  
21 Agency that all composting material was placed more  
22 than 200 feet from the nearest potable water supply  
23 well, was placed outside the boundary of the 10-year  
24 floodplain or on a part of the site that is  
25 floodproofed, was placed at least 1/4 mile from the  
26 nearest residence (other than a residence located on

1           the same property as the facility) and there are not  
2           more than 10 occupied non-farm residences within 1/2  
3           mile of the boundaries of the site on the date of  
4           application, and was placed more than 5 feet above the  
5           water table.

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

12          (r) Cause or allow the storage or disposal of coal  
13          combustion waste unless:

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

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

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

1 rules and regulations thereunder or any law or rule or  
2 regulation adopted by the State of Illinois pursuant  
3 thereto, and the owner or operator of the facility agrees  
4 to accept the waste; and either

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

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

25 Notwithstanding any other provision of this Title, the  
26 disposal of coal combustion waste pursuant to item (2) or (3)

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

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

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

15 (u) Conduct any vegetable by-product treatment, storage,  
16 disposal or transportation operation in violation of any  
17 regulation, standards or permit requirements adopted by the  
18 Board under this Act. However, no permit shall be required  
19 under this Title V for the land application of vegetable  
20 by-products conducted pursuant to Agency permit issued under  
21 Title III of this Act to the generator of the vegetable  
22 by-products. In addition, vegetable by-products may be  
23 transported in this State without a special waste hauling  
24 permit, and without the preparation and carrying of a 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 that  
4 is not commingled with any waste, without the maintenance of  
5 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 for  
14 final disposal, recycling, or treatment, (2) a public utility  
15 (as that term is defined in the Public Utilities Act) or a  
16 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 the  
4 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 is  
10 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. 93-179, eff. 7-11-03; 94-94, eff. 7-1-05.)