



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2297

Introduced 2/18/2009, by Rep. Kay Hatcher

SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Requires an owner or operator of land to apply for and receive a permit from the Illinois Environmental Protection Agency to increase the rate of landscape waste application to greater than the "agronomic rate" (20 tons per acre per year). Specifies the permit application process. Provides that written notice of a permit request must be served to (i) specified land owners, (ii) the governing body of the municipality and county board of the county in which the proposed composting facility is to be located, and (iii) the members of the General Assembly from the legislative district in which the proposed composting facility is to be located. Specifies the permit review process. Provides that any person shall have the right to inspect and to copy any permit application upon a formal written request to the Agency. Provides that a permit shall be valid for up to 2 years from the date of issuance. Effective immediately.

LRB096 09582 JDS 19743 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 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 applied for
10 and received a permit pursuant to this subsection (q)
11 ~~demonstrated to the Agency that the site's soil characteristics~~
12 ~~or crop needs require a higher rate.~~

13 (1) A permit applicant must submit to the Agency a soil
14 analysis that includes: (i) a minimum of one soil analysis
15 test per every acre to which landscape waste will be
16 applied and a site map indicating from where the soil tests
17 were taken, and (ii) all of the soil analysis records for
18 the subject property from the last 5 years, including maps
19 indicating from where the samples were taken.

20 (2) No later than 14 days after filing a permit
21 application with the Agency to apply landscape waste or
22 composted landscape waste above the agronomic rate, the
23 applicant shall cause written notice of such request to be
24 served upon the following persons and entities:

25 (A) The owners of all property within the subject
26 area not solely owned by the applicant, and on the

1 owners of all property within 1,000 feet in each
2 direction of the lot line of the subject property;
3 provided, that the number of all feet occupied by all
4 public roads, streets, alleys, and other public ways
5 shall be excluded in computing the 1,000 foot
6 requirement; provided further, that in no event shall
7 this requirement exceed 1,500 feet, including public
8 streets, alleys, and other public ways. The notice
9 shall be served either in person or by registered mail,
10 return receipt requested. For the purposes of this
11 subdivision (1), "owners" means the persons or
12 entities which appear from the authentic tax records of
13 the county in which the composting facility is to be
14 located.

15 (B) The members of the Illinois General Assembly
16 from the legislative district in which the proposed
17 facility is to be located. The notice shall be
18 published in a newspaper of general circulation
19 published in the county in which the proposed site is
20 to be located.

21 The written notice shall include the following
22 information: (i) the name and address of the applicant,
23 (ii) the location of the site, (iii) the requested amount
24 of landscape waste to be applied, (iv) the probable life of
25 the proposed activity, (v) the date, time, and location of
26 the public hearing, and (vi) a description of the right of

1 persons to comment on the request.

2 (3) No later than 14 days after receiving a complete
3 application, the Agency shall cause written notice to be
4 served upon the governing body of the municipality and the
5 county board of the county in which the proposed facility
6 is to be located. The written notice shall include the
7 following information: (i) the name and address of the
8 applicant, (ii) the location of the site, (iii) the
9 requested amount of landscape waste to be applied, (iv) the
10 probable life of the proposed activity, (v) the date, time,
11 and location of the public hearing, and (vi) a description
12 of the right of persons to comment on the request.

13 (4) Within 14 days after receiving a complete
14 application, the Agency shall schedule a public hearing at
15 which members of the public, the governing body of the
16 municipality in which the proposed facility is to be
17 located, and the county board of the county in which the
18 proposed facility is to be located may present objections
19 to the issuance of a permit to increase the rate of
20 landscape waste application above the agronomic rate. The
21 hearing shall take place within 45 days after the Agency
22 receives the application. Any person appearing at the
23 public hearing shall have the right to file a formal
24 written objection that specifies the basis for the
25 objection. The objection may also include any supporting
26 materials.

1 (5) In reviewing an application to apply landscape
2 waste or composted landscape waste above the agronomic
3 rate, the Agency shall perform an on-site inspection of the
4 property to which the landscape waste is to be applied. In
5 reviewing the application materials, the Agency shall
6 perform independent calculations to determine the nitrogen
7 needs of the crops and soil. The Agency shall review the
8 potassium, phosphorus, and pH levels of the soil to
9 determine the crop needs and soil requirements. The
10 applicant has the burden of proving that the crop needs and
11 soil requirements require a higher rate of landscape waste
12 application. The Agency shall issue a written decision
13 within 60 days of receiving an application, and it shall
14 give notice of its decision to the applicant and to all
15 persons who filed a formal written objection to the permit.

16 (6) Any person shall have the right to inspect and to
17 copy any application and its supporting materials filed
18 with the Agency under this subsection (q) and the Agency
19 file associated with the application upon a formal written
20 request to the Agency.

21 (7) Any person, including a governmental entity, who
22 files a formal written objection at the public hearing, has
23 the right to appeal an Agency decision permitting an
24 increase in the rate of landscape waste application to the
25 Illinois Pollution Control Board. To appeal a decision of
26 the Board, a person must follow the procedures set forth in

1 Section 40 of this Act. Judicial review of the Board's
2 decision is permitted under Section 41 of this Act.

3 (8) A permit issued under this subsection (q) shall be
4 valid for a period of up to 2 years from the date of
5 issuance.

6 (r) Cause or allow the storage or disposal of coal
7 combustion waste unless:

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

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

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

25 (i) such waste is stored or disposed of in
26 accordance with requirements applicable to refuse

1 disposal under regulations adopted by the Board for
2 mine-related water pollution and pursuant to NPDES and
3 Subtitle D permits issued by the Agency under such
4 regulations; or

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

19 Notwithstanding any other provision of this Title, the
20 disposal of coal combustion waste pursuant to item (2) or (3)
21 of this subdivision (r) shall be exempt from the other
22 provisions of this Title V, and notwithstanding the provisions
23 of Title X of this Act, the Agency is authorized to grant
24 experimental permits which include provision for the disposal
25 of wastes from the combustion of coal and other materials
26 pursuant to items (2) and (3) of this subdivision (r).

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

5 (t) Cause or allow a lateral expansion of a municipal solid
6 waste landfill unit on or after October 9, 1993, without a
7 permit modification, granted by the Agency, that authorizes the
8 lateral expansion.

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

19 (v) (Blank).

20 (w) Conduct any generation, transportation, or recycling
21 of construction or demolition debris, clean or general, or
22 uncontaminated soil generated during construction, remodeling,
23 repair, and demolition of utilities, structures, and roads that
24 is not commingled with any waste, without the maintenance of
25 documentation identifying the hauler, generator, place of
26 origin of the debris or soil, the weight or volume of the

1 debris or soil, and the location, owner, and operator of the
2 facility where the debris or soil was transferred, disposed,
3 recycled, or treated. This documentation must be maintained by
4 the generator, transporter, or recycler for 3 years. This
5 subsection (w) shall not apply to (1) a permitted pollution
6 control facility that transfers or accepts construction or
7 demolition debris, clean or general, or uncontaminated soil for
8 final disposal, recycling, or treatment, (2) a public utility
9 (as that term is defined in the Public Utilities Act) or a
10 municipal utility, (3) the Illinois Department of
11 Transportation, or (4) a municipality or a county highway
12 department, with the exception of any municipality or county
13 highway department located within a county having a population
14 of over 3,000,000 inhabitants or located in a county that is
15 contiguous to a county having a population of over 3,000,000
16 inhabitants; but it shall apply to an entity that contracts
17 with a public utility, a municipal utility, the Illinois
18 Department of Transportation, or a municipality or a county
19 highway department. The terms "generation" and "recycling" as
20 used in this subsection do not apply to clean construction or
21 demolition debris when (i) used as fill material below grade
22 outside of a setback zone if covered by sufficient
23 uncontaminated soil to support vegetation within 30 days of the
24 completion of filling or if covered by a road or structure,
25 (ii) solely broken concrete without protruding metal bars is
26 used for erosion control, or (iii) milled asphalt or crushed

1 concrete is used as aggregate in construction of the shoulder
2 of a roadway. The terms "generation" and "recycling", as used
3 in this subsection, do not apply to uncontaminated soil that is
4 not commingled with any waste when (i) used as fill material
5 below grade or contoured to grade, or (ii) used at the site of
6 generation.

7 (Source: P.A. 93-179, eff. 7-11-03; 94-94, eff. 7-1-05.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.