

# SB3002



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3002

Introduced 2/4/2010, by Sen. Susan Garrett

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.54

Amends the Environmental Protection Act. Makes a technical change in a provision concerning beneficial use determinations.

LRB096 19995 JDS 35480 b

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 22.54 as follows:

6 (415 ILCS 5/22.54)

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

13 (a) To the extent allowed by federal law, the Agency may,  
14 upon the request of an applicant, make a written determination  
15 that a material is used beneficially (rather than discarded)  
16 and, therefore, not a waste if the applicant demonstrates all  
17 of the following:

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

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

23 (A) The material will be used within a reasonable

1 time.

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

4 (C) The material will not be abandoned.

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

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

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

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

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

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

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

10 (C) The applicant demonstrates all of the  
11 following:

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

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

17 (iii) The material is not abandoned.

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

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

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

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

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

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

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

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

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

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

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

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

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