

# HB3620



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3620

Introduced 2/24/2011, by Rep. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Provides that it is not a violation of the Act to store or dispose of coal combustion waste that is reused as structural fill at a site or facility, if that waste is fully encapsulated. Defines "fully encapsulated" and "structural fill".

LRB097 09237 JDS 49372 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, provided that the  
13          facility was receiving construction or demolition debris  
14          on the effective date of this amendatory Act of the 96th  
15          General Assembly;

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

18               (3) which receives waste after August 31, 1988, does  
19               not have a permit issued by the Agency, and is (i) a  
20               landfill used exclusively for the disposal of waste  
21               generated at the site, (ii) a surface impoundment receiving  
22               special waste not listed in an NPDES permit, (iii) a waste  
23               pile in which the total volume of waste is greater than 100  
24               cubic yards or the waste is stored for over one year, or  
25               (iv) a land treatment facility receiving special waste  
26               generated at the site; without giving notice of the

1 operation to the Agency by January 1, 1989, or 30 days  
2 after the date on which the operation commences, whichever  
3 is later, and every 3 years thereafter. The form for such  
4 notification shall be specified by the Agency, and shall be  
5 limited to information regarding: the name and address of  
6 the location of the operation; the type of operation; the  
7 types and amounts of waste stored, treated or disposed of  
8 on an annual basis; the remaining capacity of the  
9 operation; and the remaining expected life of the  
10 operation.

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

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

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

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

25 (1) without a RCRA permit for the site issued by the  
26 Agency under subsection (d) of Section 39 of this Act, or

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

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

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

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

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

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

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

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

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

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

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

1 transported. This subsection (j) shall not apply to hazardous  
2 waste.

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

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

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

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

26 (o) Conduct a sanitary landfill operation which is required

1 to have a permit under subsection (d) of this Section, in a  
2 manner which results in any of the following conditions:

3 (1) refuse in standing or flowing waters;

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

5 (3) leachate flows exiting the landfill confines (as  
6 determined by the boundaries established for the landfill  
7 by a permit issued by the Agency);

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

10 (5) uncovered refuse remaining from any previous  
11 operating day or at the conclusion of any operating day,  
12 unless authorized by permit;

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

15 (7) acceptance of wastes without necessary permits;

16 (8) scavenging as defined by Board regulations;

17 (9) deposition of refuse in any unpermitted portion of  
18 the landfill;

19 (10) acceptance of a special waste without a required  
20 manifest;

21 (11) failure to submit reports required by permits or  
22 Board regulations;

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

25 (13) failure to submit any cost estimate for the site  
26 or any performance bond or other security for the site as



1 required by this Act or Board rules.

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

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

11 (1) litter;

12 (2) scavenging;

13 (3) open burning;

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

15 (5) proliferation of disease vectors;

16 (6) standing or flowing liquid discharge from the dump  
17 site;

18 (7) deposition of:

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

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

23 The prohibitions specified in this subsection (p) shall be  
24 enforceable by the Agency either by administrative citation  
25 under Section 31.1 of this Act or as otherwise provided by this  
26 Act. The specific prohibitions in this subsection do not limit

1 the power of the Board to establish regulations or standards  
2 applicable to open dumping.

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

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

10 (2) applying landscape waste or composted landscape  
11 waste at agronomic rates; or

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

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

23 (B) the property on which the composting facility  
24 is located, and any associated property on which the  
25 compost is used, is principally and diligently devoted  
26 to the production of agricultural crops and is not

1 owned, leased or otherwise controlled by any waste  
2 hauler or generator of nonagricultural compost  
3 materials, and the operator of the composting facility  
4 is not an employee, partner, shareholder, or in any way  
5 connected with or controlled by any such waste hauler  
6 or generator;

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

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

1 floodplain or on a part of the site that is  
2 floodproofed, was placed at least 1/4 mile from the  
3 nearest residence (other than a residence located on  
4 the same property as the facility) and there are not  
5 more than 10 occupied non-farm residences within 1/2  
6 mile of the boundaries of the site on the date of  
7 application, and was placed more than 5 feet above the  
8 water table.

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

15 (r) Cause or allow the storage or disposal of coal  
16 combustion waste unless:

17 (0.5) if reused as structural fill at a site or  
18 facility, such waste is fully encapsulated; or

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

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

26 (3) such waste is stored or disposed of at a site or

1 facility which is operating under NPDES and Subtitle D  
2 permits issued by the Agency pursuant to regulations  
3 adopted by the Board for mine-related water pollution and  
4 permits issued pursuant to the Federal Surface Mining  
5 Control and Reclamation Act of 1977 (P.L. 95-87) or the  
6 rules and regulations thereunder or any law or rule or  
7 regulation adopted by the State of Illinois pursuant  
8 thereto, and the owner or operator of the facility agrees  
9 to accept the waste; and either

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

16 (ii) the owner or operator of the facility  
17 demonstrates all of the following to the Agency, and  
18 the facility is operated in accordance with the  
19 demonstration as approved by the Agency: (1) the  
20 disposal area will be covered in a manner that will  
21 support continuous vegetation, (2) the facility will  
22 be adequately protected from wind and water erosion,  
23 (3) the pH will be maintained so as to prevent  
24 excessive leaching of metal ions, and (4) adequate  
25 containment or other measures will be provided to  
26 protect surface water and groundwater from

1           contamination at levels prohibited by this Act, the  
2           Illinois Groundwater Protection Act, or regulations  
3           adopted pursuant thereto.

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

12          For the purposes of this subdivision (r), "fully  
13          encapsulated" means encased or enclosed in such a way as to  
14          prevent the leaching of coal combustion residual constituents,  
15          including, but not limited to, antimony, arsenic, barium,  
16          beryllium, cadmium, chromium, lead, mercury, nickle, selenium,  
17          silver, and thallium, in trace amounts or otherwise.

18          For the purposes of this subdivision (r), "structural fill"  
19          means an engineered fill with beneficial end use that is  
20          constructed using coal combustion by-products properly placed  
21          and compacted.

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

26          (t) Cause or allow a lateral expansion of a municipal solid

1 waste landfill unit on or after October 9, 1993, without a  
2 permit modification, granted by the Agency, that authorizes the  
3 lateral expansion.

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

14 (v) (Blank).

15 (w) Conduct any generation, transportation, or recycling  
16 of construction or demolition debris, clean or general, or  
17 uncontaminated soil generated during construction, remodeling,  
18 repair, and demolition of utilities, structures, and roads that  
19 is not commingled with any waste, without the maintenance of  
20 documentation identifying the hauler, generator, place of  
21 origin of the debris or soil, the weight or volume of the  
22 debris or soil, and the location, owner, and operator of the  
23 facility where the debris or soil was transferred, disposed,  
24 recycled, or treated. This documentation must be maintained by  
25 the generator, transporter, or recycler for 3 years. This  
26 subsection (w) shall not apply to (1) a permitted pollution

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



1 generation.

2 (Source: P.A. 96-611, eff. 8-24-09.)