



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 Sections 3.140 and 22.54 and by adding Section 22.53a  
6 as follows:

7 (415 ILCS 5/3.140) (was 415 ILCS 5/3.76)

8 Sec. 3.140. Coal combustion waste. "Coal combustion waste"  
9 means any fly ash, bottom ash, coal slag, or flue gas or fluid  
10 bed boiler desulfurization by-products generated as a result of  
11 the combustion of:

12 (1) coal, or

13 (2) coal in combination with: (i) fuel grade petroleum  
14 coke, (ii) other fossil fuel, or (iii) both fuel grade  
15 petroleum coke and other fossil fuel, or

16 (3) coal (with or without: (i) fuel grade petroleum coke,  
17 (ii) other fossil fuel, or (iii) both fuel grade petroleum coke  
18 and other fossil fuel) in combination with no more than 20% of  
19 tire derived fuel or wood or other materials by weight of the  
20 materials combusted; provided that the coal is burned with  
21 other materials, the Agency has made a written determination  
22 that the storage or disposal of the resultant wastes in  
23 accordance with the provisions of item (r) of Section 21 would

1 result in no environmental impact greater than that of wastes  
2 generated as a result of the combustion of coal alone, and the  
3 storage disposal of the resultant wastes would not violate  
4 applicable federal law.

5 (Source: P.A. 92-574, eff. 6-26-02.)

6 (415 ILCS 5/22.53a new)

7 Sec. 22.53a. Steelmaking slags. Notwithstanding any other  
8 provision of law, the Agency shall not regulate slag generated  
9 by the production of steel, which is the beneficial and  
10 intended coproduct of the steel manufacturing process and is  
11 managed as an item of value in a controlled manner and not as a  
12 discarded material, except as may be required by federal law or  
13 regulation.

14 (415 ILCS 5/22.54)

15 Sec. 22.54. Beneficial Use Determinations. The purpose of  
16 this Section is to allow the Agency to determine that a  
17 material otherwise required to be managed as waste may be  
18 managed as non-waste if that material is used beneficially and  
19 in a manner that is protective of human health and the  
20 environment.

21 (a) To the extent allowed by federal law, the Agency may,  
22 upon the request of an applicant, make a written determination  
23 that a material is used beneficially (rather than discarded)  
24 and, therefore, not a waste if the applicant demonstrates all

1 of the following:

2 (1) The chemical and physical properties of the  
3 material are comparable to similar commercially available  
4 materials.

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

7 (A) The material will be used within a reasonable  
8 time.

9 (B) The material's storage prior to use will be  
10 minimized.

11 (C) The material will not be abandoned.

12 (3) The material is legitimately beneficially used.  
13 For the purposes of this item (3) of subsection (a) of this  
14 Section, a material is "legitimately beneficially used" if  
15 the applicant demonstrates all of the following:

16 (A) The material is managed separately from waste,  
17 as a valuable material, and in a manner that maintains  
18 its beneficial usefulness, including, but not limited  
19 to, storing in a manner that minimizes the material's  
20 loss and maintains its beneficial usefulness.

21 (B) The material is used as an effective substitute  
22 for a similar commercially available material. For the  
23 purposes of this paragraph (B) of item (3) of  
24 subsection (a) of this Section, a material is "used as  
25 an effective substitute for a commercially available  
26 material" if the applicant demonstrates one or more of

1 the following:

2 (i) The material is used as a valuable raw  
3 material or ingredient to produce a legitimate end  
4 product.

5 (ii) The material is used directly as a  
6 legitimate end product in place of a similar  
7 commercially available product.

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

10 The applicant's demonstration under this paragraph  
11 (B) of item (3) of subsection (a) of this Section must  
12 include, but is not limited to, a description of the  
13 use of the material, a description of the use of the  
14 legitimate end product, and a demonstration that the  
15 use of the material is comparable to the use of similar  
16 commercially available products.

17 (C) The applicant demonstrates all of the  
18 following:

19 (i) The material is used under paragraph (B) of  
20 item (3) of subsection (a) of this Section within a  
21 reasonable time.

22 (ii) The material's storage prior to use is  
23 minimized.

24 (iii) The material is not abandoned.

25 (4) The management and use of the material will not  
26 cause, threaten, or allow the release of any contaminant

1 into the environment, except as authorized by law.

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

4 (b) Applications for beneficial use determinations must be  
5 submitted on forms and in a format prescribed by the Agency.  
6 Agency approval, approval with conditions, or disapproval of an  
7 application for a beneficial use determination must be in  
8 writing. Approvals with conditions and disapprovals of  
9 applications for a beneficial use determination must include  
10 the Agency's reasons for the conditions or disapproval, and  
11 they are subject to review under Section 40 of this Act.

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

22 (d) No recipient of a beneficial use determination shall  
23 manage or use the material that is the subject of the  
24 determination in violation of the determination or any  
25 conditions in the determination, unless the material is managed  
26 as waste.

1 (e) A beneficial use determination shall terminate by  
2 operation of law if, due to a change in law, it conflicts with  
3 the law; however, the recipient of the determination may apply  
4 for a new beneficial use determination that is consistent with  
5 the law as amended.

6 (f) This Section does not apply to hazardous waste, coal  
7 combustion waste, coal combustion by-product, sludge applied  
8 to the land, potentially infectious medical waste, or used oil.

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

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

26 (i) For purposes of this Section, the term "commercially

1 available material" means virgin material that (i) meets  
2 industry standards for a specific use and (ii) is normally sold  
3 for such use. For purposes of this Section, the term  
4 "commercially available product" means a product made of virgin  
5 material that (i) meets industry standards for a specific use  
6 and (ii) is normally sold for such use.

7 (j) Before issuing a beneficial use determination for the  
8 beneficial use of asphalt shingles, the Agency shall conduct an  
9 evaluation of the applicant's prior experience in asphalt  
10 shingle recycling operations. The Agency may deny such a  
11 beneficial use determination if the applicant, or any employee  
12 or officer of the applicant, has a history of any one or more  
13 of the following related to the operation of asphalt shingle  
14 recycling operation facilities or sites:

15 (1) repeated violations of federal, State, or local  
16 laws, rules, regulations, standards, or ordinances;

17 (2) conviction in a court of this State or another  
18 state of any crime that is a felony under the laws of this  
19 State;

20 (3) conviction in a federal court of any crime that is  
21 a felony under federal law;

22 (4) conviction in a court of this State or another  
23 state, or in a federal court, of forgery, official  
24 misconduct, bribery, perjury, or knowingly submitting  
25 false information under any environmental law, rule,  
26 regulation, or permit term or condition; or



1           (5) gross carelessness or incompetence in the  
2           handling, storing, processing, transporting, disposing, or  
3           recycling of asphalt shingles.

4           (Source: P.A. 98-296, eff. 1-1-14.)