

SB3087



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3087

Introduced 2/6/2020, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Provides that incidental sales of finished compost do need not to be applied to agronomic rates in determining whether a person needs a permit to conduct a landscape waste composting operation at specified sites. Removes a provision requiring that no fee is charged for the acceptance of materials to be composted in order for a site having 10 or more occupied non-farm residences within 1/2 mile of its boundaries to be excepted from permit requirements.

LRB101 17253 CPF 66657 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 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, and
3 CCR surface impoundments, no permit shall be required for
4 (i) any person conducting a waste-storage,
5 waste-treatment, or waste-disposal operation for wastes
6 generated by such person's own activities which are stored,
7 treated, or disposed within the site where such wastes are
8 generated, or (ii) a facility located in a county with a
9 population over 700,000 as of January 1, 2000, operated and
10 located in accordance with Section 22.38 of this Act, and
11 used exclusively for the transfer, storage, or treatment of
12 general construction or demolition debris, provided that
13 the facility was receiving construction or demolition
14 debris on August 24, 2009 (the effective date of Public Act
15 96-611) ~~this amendatory Act of the 96th 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 special
25 waste hauling permit from the Agency in accordance with the
26 regulations adopted by the Board under this Act; 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 ~~waste~~
12 ~~transportation~~ operation in violation of any regulations,
13 standards or permit requirements adopted by the Board under
14 this Act. However, sludge from a water or sewage treatment
15 plant owned and operated by a unit of local government which
16 (1) is subject to a sludge management plan approved by the
17 Agency or a permit granted by the Agency, and (2) has been
18 tested and determined not to be a hazardous waste as required
19 by applicable State and federal laws and regulations, may be
20 transported in this State without a special waste hauling
21 permit, and the preparation and carrying of a manifest shall
22 not be required for such sludge under the rules of the
23 Pollution Control Board. The unit of local government which
24 operates the treatment plant producing such sludge shall file
25 an annual report with the Agency identifying the volume of such
26 sludge transported during the reporting period, the hauler of

1 the sludge, and the disposal sites to which it was transported.
2 This subsection (j) shall not apply to hazardous 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 ~~publicly owned~~ sewage works or the disposal or
17 utilization of sludge from publicly owned ~~publicly owned~~
18 sewage works.

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

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

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

4 (1) refuse in standing or flowing waters;

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

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

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

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

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

16 (7) acceptance of wastes without necessary permits;

17 (8) scavenging as defined by Board regulations;

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

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

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

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

26 (13) failure to submit any cost estimate for the site

1 or any performance bond or other security for the site as
2 required by this Act or Board rules.

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

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

- 12 (1) litter;
- 13 (2) scavenging;
- 14 (3) open burning;
- 15 (4) deposition of waste in standing or flowing waters;
- 16 (5) proliferation of disease vectors;
- 17 (6) standing or flowing liquid discharge from the dump
18 site;

- 19 (7) deposition of:
 - 20 (i) general construction or demolition debris as
21 defined in Section 3.160(a) of this Act; or
 - 22 (ii) clean construction or demolition debris as
23 defined in Section 3.160(b) of this Act.

24 The prohibitions specified in this subsection (p) shall be
25 enforceable by the Agency either by administrative citation
26 under Section 31.1 of this Act or as otherwise provided by this

1 Act. The specific prohibitions in this subsection do not limit
2 the power of the Board to establish regulations or standards
3 applicable to open dumping.

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

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

11 (1.5) conducting a landscape waste composting
12 operation that (i) has no more than 25 cubic yards of
13 landscape waste, composting additives, composting
14 material, or end-product compost on-site at any one time
15 and (ii) is not engaging in commercial activity; or

16 (2) applying landscape waste or composted landscape
17 waste at agronomic rates; or

18 (2.5) operating a landscape waste composting facility
19 at a site having 10 or more occupied non-farm residences
20 within 1/2 mile of its boundaries, if the facility meets
21 all of the following criteria:

22 (A) the composting facility is operated by the
23 farmer on property on which the composting material is
24 utilized, and the composting facility constitutes no
25 more than 2% of the site's total acreage;

26 (A-5) any composting additives that the composting

1 facility accepts and uses at the facility are necessary
2 to provide proper conditions for composting and do not
3 exceed 10% of the total composting material at the
4 facility at any one time;

5 (B) the property on which the composting facility
6 is located, and any associated property on which the
7 compost is used, is principally and diligently devoted
8 to the production of agricultural crops and is not
9 owned, leased, or otherwise controlled by any waste
10 hauler or generator of nonagricultural compost
11 materials, and the operator of the composting facility
12 is not an employee, partner, shareholder, or in any way
13 connected with or controlled by any such waste hauler
14 or generator;

15 (C) all compost generated by the composting
16 facility, except incidental sales of finished compost,
17 is applied at agronomic rates and used as mulch,
18 fertilizer, or soil conditioner on land actually
19 farmed by the person operating the composting
20 facility, and the finished compost is not stored at the
21 composting site for a period longer than 18 months
22 prior to its application as mulch, fertilizer, or soil
23 conditioner;

24 (D) ~~(blank) no fee is charged for the acceptance of~~
25 ~~materials to be composted at the facility;~~ and

26 (E) the owner or operator, by January 1, 2014 (or

1 the January 1 following commencement of operation,
2 whichever is later) and January 1 of each year
3 thereafter, registers the site with the Agency, (ii)
4 reports to the Agency on the volume of composting
5 material received and used at the site; (iii) certifies
6 to the Agency that the site complies with the
7 requirements set forth in subparagraphs (A), (A-5),
8 (B), (C), and (D) of this paragraph (2.5); and (iv)
9 certifies to the Agency that all composting material
10 was placed more than 200 feet from the nearest potable
11 water supply well, was placed outside the boundary of
12 the 10-year floodplain or on a part of the site that is
13 floodproofed, was placed at least 1/4 mile from the
14 nearest residence (other than a residence located on
15 the same property as the facility) or a lesser distance
16 from the nearest residence (other than a residence
17 located on the same property as the facility) if the
18 municipality in which the facility is located has by
19 ordinance approved a lesser distance than 1/4 mile, and
20 was placed more than 5 feet above the water table; any
21 ordinance approving a residential setback of less than
22 1/4 mile that is used to meet the requirements of this
23 subparagraph (E) of paragraph (2.5) of this subsection
24 must specifically reference this paragraph; or

25 (3) operating a landscape waste composting facility on
26 a farm, if the facility meets all of the following

1 criteria:

2 (A) the composting facility is operated by the
3 farmer on property on which the composting material is
4 utilized, and the composting facility constitutes no
5 more than 2% of the property's total acreage, except
6 that the Board may allow a higher percentage for
7 individual sites where the owner or operator has
8 demonstrated to the Board that the site's soil
9 characteristics or crop needs require a higher rate;

10 (A-1) the composting facility accepts from other
11 agricultural operations for composting with landscape
12 waste no materials other than uncontaminated and
13 source-separated (i) crop residue and other
14 agricultural plant residue generated from the
15 production and harvesting of crops and other customary
16 farm practices, including, but not limited to, stalks,
17 leaves, seed pods, husks, bagasse, and roots and (ii)
18 plant-derived animal bedding, such as straw or
19 sawdust, that is free of manure and was not made from
20 painted or treated wood;

21 (A-2) any composting additives that the composting
22 facility accepts and uses at the facility are necessary
23 to provide proper conditions for composting and do not
24 exceed 10% of the total composting material at the
25 facility at any one time;

26 (B) the property on which the composting facility

1 is located, and any associated property on which the
2 compost is used, is principally and diligently devoted
3 to the production of agricultural crops and is not
4 owned, leased or otherwise controlled by any waste
5 hauler or generator of nonagricultural compost
6 materials, and the operator of the composting facility
7 is not an employee, partner, shareholder, or in any way
8 connected with or controlled by any such waste hauler
9 or generator;

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

18 (D) the owner or operator, by January 1 of each
19 year, (i) registers the site with the Agency, (ii)
20 reports to the Agency on the volume of composting
21 material received and used at the site, (iii) certifies
22 to the Agency that the site complies with the
23 requirements set forth in subparagraphs (A), (A-1),
24 (A-2), (B), and (C) of this paragraph (q) (3), and (iv)
25 certifies to the Agency that all composting material:

26 (I) was placed more than 200 feet from the

1 nearest potable water supply well;

2 (II) was placed outside the boundary of the
3 10-year floodplain or on a part of the site that is
4 floodproofed;

5 (III) was placed either (aa) at least 1/4 mile
6 from the nearest residence (other than a residence
7 located on the same property as the facility) and
8 there are not more than 10 occupied non-farm
9 residences within 1/2 mile of the boundaries of the
10 site on the date of application or (bb) a lesser
11 distance from the nearest residence (other than a
12 residence located on the same property as the
13 facility) provided that the municipality or county
14 in which the facility is located has by ordinance
15 approved a lesser distance than 1/4 mile and there
16 are not more than 10 occupied non-farm residences
17 within 1/2 mile of the boundaries of the site on
18 the date of application; and

19 (IV) was placed more than 5 feet above the
20 water table.

21 Any ordinance approving a residential setback of
22 less than 1/4 mile that is used to meet the
23 requirements of this subparagraph (D) must
24 specifically reference this subparagraph.

25 For the purposes of this subsection (q), "agronomic rates"
26 means the application of not more than 20 tons per acre per

1 year, except that the Board may allow a higher rate for
2 individual sites where the owner or operator has demonstrated
3 to the Board that the site's soil characteristics or crop needs
4 require a higher rate.

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

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

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

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

24 (i) such waste is stored or disposed of in
25 accordance with requirements applicable to refuse
26 disposal under regulations adopted by the Board for

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

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

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

26 (s) After April 1, 1989, offer for transportation,

1 transport, deliver, receive or accept special waste for which a
2 manifest is required, unless the manifest indicates that the
3 fee required under Section 22.8 of this Act has been paid.

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

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

18 (v) (Blank).

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

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

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

6 (Source: P.A. 100-103, eff. 8-11-17; 101-171, eff. 7-30-19;
7 revised 9-12-19.)