



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2275

Introduced 1/22/2004, by George P. Shadid

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.160
415 ILCS 5/21

was 415 ILCS 5/3.78 and 3.78a
from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Provides that broken concrete with protruding metal bars that is covered with sufficient soil materials to sustain vegetation or that is covered by a road or structure is not "waste" and does not apply to certain requirements for generating and recycling construction or demolition debris.

LRB093 14692 BDD 40234 b

1 AN ACT concerning environmental protection.

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 3.160 and 21 as follows:

6 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

7 Sec. 3.160. Construction or demolition debris.

8 (a) "General construction or demolition debris" means
9 non-hazardous, uncontaminated materials resulting from the
10 construction, remodeling, repair, and demolition of utilities,
11 structures, and roads, limited to the following: bricks,
12 concrete, and other masonry materials; soil; rock; wood,
13 including non-hazardous painted, treated, and coated wood and
14 wood products; wall coverings; plaster; drywall; plumbing
15 fixtures; non-asbestos insulation; roofing shingles and other
16 roof coverings; reclaimed asphalt pavement; glass; plastics
17 that are not sealed in a manner that conceals waste; electrical
18 wiring and components containing no hazardous substances; and
19 piping or metals incidental to any of those materials.

20 General construction or demolition debris does not include
21 uncontaminated soil generated during construction, remodeling,
22 repair, and demolition of utilities, structures, and roads
23 provided the uncontaminated soil is not commingled with any
24 general construction or demolition debris or other waste.

25 To the extent allowed by federal law, broken concrete with
26 protruding metal bars is not considered "waste" if it is
27 covered with sufficient soil materials to sustain vegetation or
28 if it is covered by a road or structure.

29 (b) "Clean construction or demolition debris" means
30 uncontaminated broken concrete without protruding metal bars,
31 bricks, rock, stone, reclaimed asphalt pavement, or soil
32 generated from construction or demolition activities.

1 Clean construction or demolition debris does not include
2 uncontaminated soil generated during construction, remodeling,
3 repair, and demolition of utilities, structures, and roads
4 provided the uncontaminated soil is not commingled with any
5 clean construction or demolition debris or other waste.

6 To the extent allowed by federal law, clean construction or
7 demolition debris shall not be considered "waste" if it is (i)
8 used as fill material outside of a setback zone if the fill is
9 placed no higher than the highest point of elevation existing
10 prior to the filling immediately adjacent to the fill area, and
11 if covered by sufficient uncontaminated soil to support
12 vegetation within 30 days of the completion of filling or if
13 covered by a road or structure, or (ii) separated or processed
14 and returned to the economic mainstream in the form of raw
15 materials or products, if it is not speculatively accumulated
16 and, if used as a fill material, it is used in accordance with
17 item (i) within 30 days of its generation, or (iii) solely
18 broken concrete without protruding metal bars used for erosion
19 control, or (iv) generated from the construction or demolition
20 of a building, road, or other structure and used to construct,
21 on the site where the construction or demolition has taken
22 place, a manmade functional structure not to exceed 20 feet
23 above the highest point of elevation of the property
24 immediately adjacent to the new manmade functional structure as
25 that elevation existed prior to the creation of that new
26 structure, provided that the structure shall be covered with
27 sufficient soil materials to sustain vegetation or by a road or
28 structure, and further provided that no such structure shall be
29 constructed within a home rule municipality with a population
30 over 500,000 without the consent of the municipality.

31 (Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.)

32 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

33 Sec. 21. Prohibited acts. No person shall:

34 (a) Cause or allow the open dumping of any waste.

35 (b) Abandon, dump, or deposit any waste upon the public

1 highways or other public property, except in a sanitary
2 landfill approved by the Agency pursuant to regulations adopted
3 by the Board.

4 (c) Abandon any vehicle in violation of the "Abandoned
5 Vehicles Amendment to the Illinois Vehicle Code", as enacted by
6 the 76th General Assembly.

7 (d) Conduct any waste-storage, waste-treatment, or
8 waste-disposal operation:

9 (1) without a permit granted by the Agency or in
10 violation of any conditions imposed by such permit,
11 including periodic reports and full access to adequate
12 records and the inspection of facilities, as may be
13 necessary to assure compliance with this Act and with
14 regulations and standards adopted thereunder; provided,
15 however, that, except for municipal solid waste landfill
16 units that receive waste on or after October 9, 1993, no
17 permit shall be required for (i) any person conducting a
18 waste-storage, waste-treatment, or waste-disposal
19 operation for wastes generated by such person's own
20 activities which are stored, treated, or disposed within
21 the site where such wastes are generated, or (ii) a
22 facility located in a county with a population over
23 700,000, operated and located in accordance with Section
24 22.38 of this Act, and used exclusively for the transfer,
25 storage, or treatment of general construction or
26 demolition debris;

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

29 (3) which receives waste after August 31, 1988, does
30 not have a permit issued by the Agency, and is (i) a
31 landfill used exclusively for the disposal of waste
32 generated at the site, (ii) a surface impoundment receiving
33 special waste not listed in an NPDES permit, (iii) a waste
34 pile in which the total volume of waste is greater than 100
35 cubic yards or the waste is stored for over one year, or
36 (iv) a land treatment facility receiving special waste

1 generated at the site; without giving notice of the
2 operation to the Agency by January 1, 1989, or 30 days
3 after the date on which the operation commences, whichever
4 is later, and every 3 years thereafter. The form for such
5 notification shall be specified by the Agency, and shall be
6 limited to information regarding: the name and address of
7 the location of the operation; the type of operation; the
8 types and amounts of waste stored, treated or disposed of
9 on an annual basis; the remaining capacity of the
10 operation; and the remaining expected life of the
11 operation.

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

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

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

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

26 (1) without a RCRA permit for the site issued by the
27 Agency under subsection (d) of Section 39 of this Act, or
28 in violation of any condition imposed by such permit,
29 including periodic reports and full access to adequate
30 records and the inspection of facilities, as may be
31 necessary to assure compliance with this Act and with
32 regulations and standards adopted thereunder; or

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

35 (3) in violation of any RCRA permit filing requirement
36 established under standards adopted by the Board under this

1 Act; or

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

4 Notwithstanding the above, no RCRA permit shall be required
5 under this subsection or subsection (d) of Section 39 of this
6 Act for any person engaged in agricultural activity who is
7 disposing of a substance which has been identified as a
8 hazardous waste, and which has been designated by Board
9 regulations as being subject to this exception, if the
10 substance was acquired for use by that person on his own
11 property and the substance is disposed of on his own property
12 in accordance with regulations or standards adopted by the
13 Board.

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

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

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

20 (h) Conduct any hazardous waste-recycling or hazardous
21 waste-reclamation or hazardous waste-reuse operation in
22 violation of any regulations, standards or permit requirements
23 adopted by the Board under this Act.

24 (i) Conduct any process or engage in any act which produces
25 hazardous waste in violation of any regulations or standards
26 adopted by the Board under subsections (a) and (c) of Section
27 22.4 of this Act.

28 (j) Conduct any special waste transportation operation in
29 violation of any regulations, standards or permit requirements
30 adopted by the Board under this Act. However, sludge from a
31 water or sewage treatment plant owned and operated by a unit of
32 local government which (1) is subject to a sludge management
33 plan approved by the Agency or a permit granted by the Agency,
34 and (2) has been tested and determined not to be a hazardous
35 waste as required by applicable State and federal laws and
36 regulations, may be transported in this State without a special

1 waste hauling permit, and the preparation and carrying of a
2 manifest shall not be required for such sludge under the rules
3 of the Pollution Control Board. The unit of local government
4 which operates the treatment plant producing such sludge shall
5 file a semiannual report with the Agency identifying the volume
6 of such sludge transported during the reporting period, the
7 hauler of the sludge, and the disposal sites to which it was
8 transported. This subsection (j) shall not apply to hazardous
9 waste.

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

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

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

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

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

36 (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
27 under Section 31.1 of this Act or as otherwise provided by this
28 Act. The specific prohibitions in this subsection do not limit
29 the power of the Board to establish regulations or standards
30 applicable to sanitary landfills.

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

- 34 (1) litter;
- 35 (2) scavenging;
- 36 (3) open burning;

- 1 (4) deposition of waste in standing or flowing waters;
- 2 (5) proliferation of disease vectors;
- 3 (6) standing or flowing liquid discharge from the dump
- 4 site;
- 5 (7) deposition of:
- 6 (i) general construction or demolition debris as
- 7 defined in Section 3.160(a) of this Act; or
- 8 (ii) clean construction or demolition debris as
- 9 defined in Section 3.160(b) of this Act.

10 The prohibitions specified in this subsection (p) shall be

11 enforceable by the Agency either by administrative citation

12 under Section 31.1 of this Act or as otherwise provided by this

13 Act. The specific prohibitions in this subsection do not limit

14 the power of the Board to establish regulations or standards

15 applicable to open dumping.

16 (q) Conduct a landscape waste composting operation without

17 an Agency permit, provided, however, that no permit shall be

18 required for any person:

- 19 (1) conducting a landscape waste composting operation
- 20 for landscape wastes generated by such person's own
- 21 activities which are stored, treated or disposed of within
- 22 the site where such wastes are generated; or
- 23 (2) applying landscape waste or composted landscape
- 24 waste at agronomic rates; or
- 25 (3) operating a landscape waste composting facility on
- 26 a farm, if the facility meets all of the following
- 27 criteria:

28 (A) the composting facility is operated by the

29 farmer on property on which the composting material is

30 utilized, and the composting facility constitutes no

31 more than 2% of the property's total acreage, except

32 that the Agency may allow a higher percentage for

33 individual sites where the owner or operator has

34 demonstrated to the Agency that the site's soil

35 characteristics or crop needs require a higher rate;

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

18 (D) the owner or operator, by January 1, 1990 (or
19 the January 1 following commencement of operation,
20 whichever is later) and January 1 of each year
21 thereafter, (i) registers the site with the Agency,
22 (ii) reports to the Agency on the volume of composting
23 material received and used at the site, (iii) certifies
24 to the Agency that the site complies with the
25 requirements set forth in subparagraphs (A), (B) and
26 (C) of this paragraph (q) (3), and (iv) certifies to the
27 Agency that all composting material was placed more
28 than 200 feet from the nearest potable water supply
29 well, was placed outside the boundary of the 10-year
30 floodplain or on a part of the site that is
31 floodproofed, was placed at least 1/4 mile from the
32 nearest residence (other than a residence located on
33 the same property as the facility) and there are not
34 more than 10 occupied non-farm residences within 1/2
35 mile of the boundaries of the site on the date of
36 application, and was placed more than 5 feet above the

1 water table.

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

8 (r) Cause or allow the storage or disposal of coal
9 combustion waste unless:

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

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

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

27 (i) such waste is stored or disposed of in
28 accordance with requirements applicable to refuse
29 disposal under regulations adopted by the Board for
30 mine-related water pollution and pursuant to NPDES and
31 Subtitle D permits issued by the Agency under such
32 regulations; or

33 (ii) the owner or operator of the facility
34 demonstrates all of the following to the Agency, and
35 the facility is operated in accordance with the
36 demonstration as approved by the Agency: (1) the

1 disposal area will be covered in a manner that will
2 support continuous vegetation, (2) the facility will
3 be adequately protected from wind and water erosion,
4 (3) the pH will be maintained so as to prevent
5 excessive leaching of metal ions, and (4) adequate
6 containment or other measures will be provided to
7 protect surface water and groundwater from
8 contamination at levels prohibited by this Act, the
9 Illinois Groundwater Protection Act, or regulations
10 adopted pursuant thereto.

11 Notwithstanding any other provision of this Title, the
12 disposal of coal combustion waste pursuant to item (2) or (3)
13 of this subdivision (r) shall be exempt from the other
14 provisions of this Title V, and notwithstanding the provisions
15 of Title X of this Act, the Agency is authorized to grant
16 experimental permits which include provision for the disposal
17 of wastes from the combustion of coal and other materials
18 pursuant to items (2) and (3) of this subdivision (r).

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

23 (t) Cause or allow a lateral expansion of a municipal solid
24 waste landfill unit on or after October 9, 1993, without a
25 permit modification, granted by the Agency, that authorizes the
26 lateral expansion.

27 (u) Conduct any vegetable by-product treatment, storage,
28 disposal or transportation operation in violation of any
29 regulation, standards or permit requirements adopted by the
30 Board under this Act. However, no permit shall be required
31 under this Title V for the land application of vegetable
32 by-products conducted pursuant to Agency permit issued under
33 Title III of this Act to the generator of the vegetable
34 by-products. In addition, vegetable by-products may be
35 transported in this State without a special waste hauling
36 permit, and without the preparation and carrying of a manifest.

1 (v) (Blank).

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

1 in this subsection, do not apply to uncontaminated soil that is
2 not commingled with any waste when (i) used as fill material
3 below grade or contoured to grade, or (ii) used at the site of
4 generation. The terms "generation" and "recycling", as used in
5 this subsection, do not apply to broken concrete with
6 protruding metal bars if covered with sufficient soil materials
7 to sustain vegetation or if covered by a road or structure.

8 (Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.)