Illinois
Environmental
Protection Agency

2200 Churchill Road
Springfield, IL 62794-9276

January 1997

ENVIRONMENTAL PROTECTION ACT

. . .to establish a unified, state-wide program supplemented by private remedies to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.

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ENVIRONMENTAL PROTECTION ACT

This printing of the Environmental Protection Act 415 ILCS 5/1 et seq.
(formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et seq.)
includes all amendments enacted prior to January 8, 1997.

is made to the pesticide or device except when references are made to current official publications of the U.S. Environmental Protection Agency, Departments of Agriculture, Health and Human Services or other Federal Government institutions, the state experiment station or colleges of agriculture or other similar state institution authorized to conduct research in the field of pesticides.

Section 3.74.

"Pesticide release" or "release of a pesticide" means any release resulting in a concentration of pesticides in waters of the State which exceeds levels for which: (1) a Maximum Contaminant Level (MCL) has been promulgated by the U.S. Environmental Protection Agency or a Maximum Allowable Concentration (MAC) has been promulgated by the Board pursuant to the Safe Drinking Water Act (P.L. 93-523), as amended; or (2) a Health Advisory used on an interim basis has been issued by the U.S. Environmental Protection Agency; or (3) a standard has been adopted by the Board pursuant to the Illinois Groundwater Protection Act; or (4) in the absence of such advisories or standards, an action level has been developed by the Agency using guidance or procedures issued by the federal government for developing health based levels.

Section 3.75.

"Landfill waste" is waste from a closed pollution control facility, closed dumping site, closed sanitary landfill, or a closed waste disposal site; provided however, "landfill waste" shall not include waste removed by or pursuant to the authority of a unit of the State or local government from the public way or household waste removed by or pursuant to the authority of the State or a unit of local government from any unauthorized open dumping site.

Section 3.76.

"Coal combustion waste" means any fly ash, bottom ash, slag, or flue gas or fluid bed boiler desulfurization by-products generated as a result of the combustion of.

1. coal, or

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

3. coal (with or without: (i) fuel grade petroleum coke, (ii) other fossil fuel, or (iii) both fuel grade petroleum coke and other fossil fuel) in combination with no more than 20% of tire derived fuel and wood or other materials by weight of the materials combusted; provided that the coal is burned with other materials, the Agency has made a written determination that the storage or disposal of the resultant wastes in accordance with the provisions of item (r) of Section 21 would result in no environmental impact greater than that of wastes generated as a result of the combustion of coal alone, and the storage disposal of the resultant wastes would not violate applicable federal law.

Section 3.77.

"Agrichemical facility" means a site used for commercial purposes, where bulk pesticides are stored in a single container in excess of 300 gallons of liquid pesticide or 300 pounds of dry pesticide for more than 30 days per year or where more than 300 gallons of liquid pesticide or 300 pounds of dry pesticide are being mixed, repackaged or transferred from one container to another within a 30 day period or a site where bulk fertilizers are stored, mixed, repackaged or transferred from one container to another.

Section 3.78.

"Clean construction or demolition debris" means broken concrete without protruding metal bars, bricks, rock, stone, reclaimed asphalt pavement or uncontaminated dirt or sand generated from construction or demolition activities.

Section 3.79.

"Land form" means manmade above-grade mound, less than 50 feet in height, covered with sufficient soil materials to sustain vegetation.

Section 3.80.

"Criterion" means the numerical concentration of one or more toxic substances calculated by the Agency as a basis for establishing a permit limitation or violation of a water quality standard pursuant to standards and procedures provided for in board regulations.

Section 3.81.

"Recycling center" means a site or facility that accepts only segregated, nonhazardous, nonspecial, homogenous, nonputrescible materials, such as dry paper, glass, cans or plastics, for subsequent use in the secondary materials market.

Section 3.82.

"Solid waste" means waste.

Section 3.83.

"Transfer station" means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility. "Transfer station" includes a site where waste is transferred from

1. a rail carrier to a motor vehicle or water carrier;

2. a water carrier to a rail carrier or motor vehicle;

3. a motor vehicle to a rail carrier, water carrier or motor vehicle;

Section 3.87.

"Existing MSWLF unit" means any municipal solid waste landfill unit that has received solid waste before October 9, 1993.

Section 3.88.

"Lateral expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. For purposes of this Section, a horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes, on or after October 9, 1993.

Section 3.89.

"Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

Section 3.90.

"Resources Conservation and Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended.

Section 3.91.

"Vegetable by-products" means any waste consisting solely of the unused portion of fruits and vegetables, associated solids, and process water resulting from any commercial canning, freezing, preserving or other processing of fruits and vegetables. Vegetable by-products are not special wastes.

Section 3.92.

"Lawncare wash water containment area" means an area utilized for the capture of spills or washing or rinsing of pesticide residues from vehicles, application equipment, mixing equipment, floors, loading areas, or other items used for the storage, handling, preparation for use, transport, or application of pesticides to land areas covered with turf kept closely mown or land area covered with turf and trees or shrubs.

Section 3.94.

"Coal combustion by-product" (CCB) means coal combustion waste when used beneficially for any of the following purposes:

1. The extraction or recovery of material compounds contained within CCB.

2. The use of CCB as a raw ingredient or mineral filler in the manufacture of cement; concrete and concrete mortars; concrete products including block, pipe and precast/prestressed components; asphalt or cement based roofing shingles; plastic products including pipes and fittings; paints and metal alloys.

3. CCB used in conformance with the specifications and under the approval of the Department of Transportation.

4. Bottom ash used as antiskid material, athletic tracks, or foot paths.

5. Use as a substitute for lime (CaO and MgO) in the lime modification of soils providing the CCB meets the Illinois Department of Transportation ("IDOT") specifications for byproduct limes.

6. CCB used as a functionally equivalent substitute for agricultural lime as a soil conditioner.

7. Bottom ash used in non-IDOT pavement base, pipe bedding, or foundation backfill.

8. Structural fill, when used in an engineered application or combined with cement, sand, or water to produce a controlled strength fill material and covered with 12 inches of soil unless infiltration is prevented by the material itself or other cover material.

9. Mine subsidence, mine fire control, mine sealing, and mine reclamation.

10. Except to the extent that the uses are otherwise authorized by law without such restrictions, uses (7) through (9) shall be subject to the following conditions:

    A. CCB shall not have been mixed with hazardous waste prior to use;

    B. CCB shall not exceed Class I Groundwater Standards for metals when tested utilizing test method ASTM D3987-85;

    C. Unless otherwise exempted, users of CCB shall provide notification to the Agency for each project utilizing CCB documenting the quantity of CCB utilized and certification of compliance with conditions (A) and (B). Notification shall not be required for pavement base, parking lot base, or building base projects utilizing less than 10,000 tons, flowable fill/grout projects utilizing less than 1,000 cubic yards or other applications utilizing less than 100 tons;

    D. Fly ash shall be applied in a manner that minimizes the generation of airborne particles and dust using techniques such as moisture conditioning, granulating, inground application, or other demonstrated method; and

E. CCB is not to be accumulated speculatively. CCB is not accumulated speculatively if during the calendar year, the CCB used is equal to 75% of the CCB by weight or volume accumulated at the beginning of the period.

To encourage and promote the utilization of CCB in productive and beneficial applications, the Agency may make a written determination that coal-combustion waste is CCB when used in a manner other than that specified in this Section if the use has been shown to have no adverse environmental impact greater than the beneficial uses specified, in consultation with the Department of Mines and Minerals, the Illinois Clean Coal Institute, the Department of Transportation, and such other agencies as may be appropriate.

Section 4. Environmental Protection Agency; establishment; duties.

a. There is established in the Executive Branch of the State Government an agency to be known as the Environmental Protection Agency. This Agency shall be under the supervision and direction of a Director who shall be appointed by the Governor with the advice and consent of the Senate. The term of office of the Director shall expire on the third Monday of January in odd numbered years provided that he shall hold his office until his successor is appointed and qualified. The Director shall receive an annual salary of $38,500 from the third Monday in January, 1979 to the third Monday in January, 1980; $40,800 from the third Monday in January, 1980 to the third Monday in January, 1981, and $43,000 thereafter, or as set by the Compensation Review Board, whichever is greater. The Director, in accord with the Personnel Code, shall employ and direct such personnel, and shall provide for such laboratory and other facilities, as may be necessary to carry out the purposes of this Act. In addition, the Director may by agreement secure such services as he may deem necessary from any other department, agency, or unit of the State Government, and may employ and compensate such consultants and technical assistants as may be required.

b. The Agency shall have the duty to collect and disseminate such information, acquire such technical data, and conduct such experiments as may be required to carry out the purposes of this Act, including ascertainment of the quantity and nature of discharges from any contaminant source and data on those sources, and to operate and arrange for the operation of devices for the monitoring of environmental quality.

c. The Agency shall have authority to conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential contaminant or noise sources, of public water supplies, and of refuse disposal sites.

d. In accordance with constitutional limitations, the Agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of:

1. Inspecting and investigating to ascertain possible violations of the Act or of regulations thereunder, or of permits or terms or conditions thereof; or

2. In accordance with the provisions of this Act, taking whatever preventive or corrective action, including but not limited to removal or remedial action, that is necessary or appropriate whenever there is a release or a substantial threat of a release of (A) a hazardous substance or pesticide or (B) petroleum from an underground storage tank.

e. The Agency shall have the duty to investigate violations of this Act or of regulations adopted thereunder, or of permits or terms or conditions thereof, to issue administrative citations as provided in Section 31.1 of this Act, and to take such summary enforcement action as is provided for by Section 34 of this Act.

f. The Agency shall appear before the Board in any hearing upon a petition for variance, the denial of a permit, or the validity or effect of a rule or regulation of the Board, and shall have the authority to appear before the Board in any hearing under the Act.

g. The Agency shall have the duty to administer, in accord with Title X of this Act, such permit and certification systems as may be established by this Act or by regulations adopted thereunder. The Agency may enter into written delegation agreements with any department, agency, or unit of State or local government under which all or portions of this duty may be delegated for public water supply storage and transport systems, sewage collection and transport systems, air pollution control sources with uncontrolled emissions of 100 tons per year or less and application of algicides to waters of the State. Such delegation agreements will require that the work to be performed thereunder will be in accordance with Agency criteria, subject to Agency review, and shall include such financial and program auditing by the Agency as may be required.

h. The Agency shall have authority to require the submission of complete plans and specifications from any applicant for a permit required by this Act or by regulations thereunder, and to require the submission of such reports regarding actual or potential violations of the Act or of regulations thereunder, or of permits or terms or conditions thereof, as may be necessary for purposes of this Act.

i. The Agency shall have authority to make recommendations to the Board for the adoption of regulations under Title VII of the Act.

j. The Agency shall have the duty to represent the State of Illinois in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts or

demonstrated to the Agency that the site's soil characteristics or crop needs require a higher rate.

r. Cause or allow the storage or disposal of coal combustion waste unless:

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

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

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

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

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

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

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

t. Cause or allow a lateral expansion of a municipal solid waste landfill unit on or after October 9, 1993, without a permit modification, granted by the Agency, that authorized the lateral expansion.

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

Section 21.1.

a. Except as provided in subsection (a.5) no person other than the State of Illinois, its agencies and institutions, or a unit of local government shall conduct any waste disposal operation on or after March 1, 1985, which requires a permit under subsection (d) of Section 21 of this Act, unless such person has posted with the Agency a performance bond or other security for the purpose of insuring closure of the site and post-closure care in accordance with this Act and regulations adopted thereunder.

   a.5 On and after the effective date established by the United States Environmental Protection Agency for MSWLF units to provide financial assurance under Subtitle D of the Resource Conservation and Recovery Act, no person, other than the State of Illinois, its agencies and institutions, shall conduct any disposal operation at a MSWLF unit that requires a permit under subsection (d) of Section 21 of this Act, unless that person has posted with the Agency a performance bond or other security for the purposes of:

   1. insuring closure of the site and post-closure care in accordance with this Act and its rules; and

   2. insuring completion of a corrective action remedy when required by Board rules adopted under Section 22.40 of this Act or when required by Section 22.41 of this Act.

The performance bond or other security requirement set forth in this Section may be fulfilled by closure or post-closure insurance, or both, issued by an insurer